

CONTEMPORARY SOVIET LAW

Essays in honor of John N. Hazard

edited by

DONALD D. BARRY
WILLIAM E. BUTLER
GEORGE GINSBURGS

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NIJHOFF
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JOHN N. HAZARD



THE CLASS OF 1937, MOSCOW JURIDICAL INSTITUTE

(at the top: Marx, Engels, Lenin, Stalin; immediately below: N. V. Krylenko, Commissar of Justice, P. I. Stuchka, deceased President of the Supreme Court, A. Y. Vyshinsky, Procurator General; the Faculty appears in rectangular photographs, and the students in oval photographs. Hazard is immediately above the building.)

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Frontispiece: Graduation picture of the Civil Law Faculty of the
Moscow Juridical Institute

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TABLE OF ABBREVIATIONS

<i>Biull. RSFSR</i> (or <i>SSSR</i>)	<i>Biulleten' verkhovnogo suda RSFSR</i> (or <i>SSSR</i>) [Bulletin of the RSFSR (or USSR) Supreme Court]
<i>CDSP</i>	<i>Current Digest of the Soviet Press</i>
<i>CPSU</i>	Communist Party of the Soviet Union
<i>KGB</i>	Committee for State Security
<i>SP RSFSR</i> (or <i>SSSR</i>)	<i>Khronologicheskoe sobranie zakonov, ukazov prezidiuma verkhovnogo soveta i postanovlenii pravitel'stva RSFSR</i> (or <i>URS</i> R) [Chronological Collection of Laws, Edicts of the Presidium of the Supreme Soviet, and Decrees of the Government of the RSFSR (or Ukrainian SSR)]
<i>LNTS</i>	<i>League of Nations Treaty Series</i>
<i>MVD</i>	Ministry of Internal Affairs
<i>RSFSR</i>	Russian Soviet Federated Socialist Republic
<i>SGiP</i>	<i>Sovetskoe gosudarstvo i pravo</i> [Soviet State and Law]
<i>Sots. zak.</i>	<i>Sotsialisticheskaia zakonnost'</i> [Socialist Legality]
<i>Sov. iust.</i>	<i>Sovetskaia iustitsiia</i> [Soviet Justice]
<i>SP RSFSR</i> (or <i>SSSR</i>)	<i>Sobranie postanovlenii pravitel'stva RSFSR</i> (or <i>SSSR</i>) [Collected Decrees of the Government of the RSFSR (or USSR)]
<i>SS RSFSR</i>	<i>Sistematicheskoe sobranie zakonov RSFSR, ukazov prezidiuma verkhovnogo soveta RSFSR i reshenii pravitel'stva RSFSR</i> [Systematic Collection of Laws of the RSFSR, Edicts of the Presidium of the Supreme Soviet of the RSFSR, and Decisions of the Government of the RSFSR]
<i>SU RSFSR</i>	<i>Sobranie uzakonenii i rasporiazhenii rabocheho i krest'ianskogo pravitel'stva RSFSR</i> [Collected Laws and Regulations of the Workers' and Peasants' Government of the RSFSR]
<i>SZ SSSR</i>	<i>Sobranie zakonov i rasporiazhenii Raboche-Krest'ianskogo Pravitel'stva SSSR</i> [Collected Laws and Regulations of the Workers' and Pea-

	sants' Government of the USSR)
<i>UNTS</i>	<i>United Nations Treaty Series</i>
USSR	Union of Soviet Socialist Republics
<i>Vedomosti RSFSR (or SSSR)</i>	<i>Vedomosti verkhovnogo soveta RSFSR (or SSR)</i> [Gazette of the Supreme Soviet of the RSFSR (or USSR)]

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EXAMINATION BOOK OF JOHN HAZARD

(the book indicates a change in name of the Institute from Moscow Institute of Soviet Law to Moscow Law Institute. By 1937 it was Moscow Juridical Institute)



EXTERIOR OF MOSCOW LAW INSTITUTE
(decorated for XVIII Anniversary of the Revolution-1935)

FOREWORD

This volume honors John N. Hazard on the occasion of his sixty-fifth year and also on the fortieth anniversary of his embarking upon the road to becoming the first American-born specialist in Socialist law. His already has been an immensely productive and varied career: law professor and political scientist at a leading American university and visiting lecturer at countless institutions in all corners of the globe; author of more than 200 learned books, articles, and reviews; adviser to government agencies; and representative on numerous professional committees and editorial boards that have contributed so significantly to the development of international and comparative legal studies in the United States and abroad.

His initiation to the field was unique; it shaped his own development, inevitably influenced those who followed, and indeed itself forms a small kernel of Soviet legal history. The editors consider it especially appropriate that John Hazard should speak for himself about these early years, and accordingly the volume opens with selections from letters which Hazard wrote to the Institute of Current World Affairs from 1934-37. None has been published before, the excerpts being taken from a set originally in the possession of Manley O. Hudson, the eminent international lawyer, and now in the collection of the Harvard Law School Library.

Following his graduation from the Harvard Law School in 1934, Hazard undertook, at the instigation of Professor Hudson and with the assistance of the Institute of Current World Affairs, to become the first American to pursue the four year law course then offered by the Institute of Soviet Law named P. I. Stuchka situated in Moscow. Though not proficient in the Russian language and lacking firm preconceptions about the Soviet legal system, Hazard nonetheless had, in the opinion of his sponsor Institute, just the right background for that kind of experience. As Hazard described it, the then Director of the Institute of Current World Affairs, Walter S. Rogers:

wanted a man with a mind that was blank as far as his interpretation of Russian history and of the Soviet man were concerned. He wanted to avoid the possibility that the student would jump to conclusions only partially based on his own observations. In his view it would be undesirable for a new man to footnote the conclusions of scholars from an earlier generation.¹

Hazard's more than three years in the Soviet Union give him an unrivalled exposure to the Soviet legal system and a breadth of concern that has continued undiminished to the present. Commenting on the scope of his endeavors, Hazard has written:

Pioneering in the 1930s in Soviet legal research required an approach which may be recommended even today in the age of specialization. This was the advantage gained from the necessity at that time of investigating personally the whole broad spectrum of Soviet law from its theoretical foundations to the minutiae of such matters as the law of inheritance. No one could tell at that time where the gold nuggets of novelty might be hidden.²

Undoubtedly the Moscow experience did have this result, for at one time or another Hazard has indeed written on virtually every subject in this volume.³

Whatever the advantages of an "instant immersion" in Soviet society of the 1930s, it could not have been an easy experience. Hazard's letters from Moscow provide a hint of the problems in coping with everyday linguistic matters, as well as the burden of pursuing legal studies in Russian. The hope expressed early in his sojourn for the time when he would "get more out of a Russian text than I got out of that one" (a writing by Lenin, incidentally, that he struggled through only a few weeks after his arrival) will strike a responsive chord in all western students of Russian language not born into a Russian-speaking milieu.

These difficulties soon passed, and Hazard was well on his way to mastering the principles of Soviet law. His first article on the subject appeared while he was in the midst of his Moscow studies. In 1937 Hazard was awarded a certificate by the Moscow Juridical Institute.⁴ Once returned to the United States, Hazard commenced his academic career in earnest, publish-

¹ J. N. Hazard, "Reflections on Thirty-Five Years of Research in Soviet Law," *Columbia Law Review*, LXX (1970), 189.

² *Ibid.*, p. 191.

³ A list of John Hazard's publications is reproduced *infra*.

⁴ The name of the Institute had by then been changed. The certificate, rather than a diploma, reflected the fact that he had elected to pursue the basic first year courses (History of the All-Russian Communist Party (Bolshevik), Dialectical Materialism, etc.) at the Foreign Workers' Club, where they were taught in English, and proceed more rapidly with the study of law.

ing seven articles during 1938 alone on such diverse subjects as legal education, criminal law, general theory of law, legal problems of minors, and international law.

Thus in many respects these years in Moscow were the formative ones of his professional life. They were also the era of a return to stability of laws in the Soviet Union, a process which Hazard was uniquely placed to observe and describe. His letters contain not only glimpses of student life in Moscow, but also comments on Soviet legal education in a reform era and give sketches of Soviet legal personalities whom Hazard knew or observed in action: Korovin, Vyshinskii, Pereterskii, Krylenko, Pashukanis, Amfitea-

The rest of the essays speak for themselves; they treat various aspects of modern Soviet law from different perspectives and vantage points. Some contributors are former students of John Hazard, yet another testimony to the fruits of his labors. All are his friends and fellow students of socialist law. At one time or another, all have had recourse to Hazard's work during their own research, be it to concur with or dissent from his observations. For all who have sought to understand Soviet law, it is not inappropriate to paraphrase Bernard of Chartres: to the degree that we understand, it is in part because we stand on the shoulders of a giant.

VIGNETTES OF LAW STUDENT LIFE
IN MOSCOW 1934-1937: SELECTED LETTERS
OF JOHN N. HAZARD

November 4, 1934

. . . The other night I had my first contact with the famous bezprizornye or so called wild boys. I have often seen them in the streets and been warned that they could cause trouble and were great thieves. You may have seen the very fine movie about the rehabilitation of some of them. That work goes on, but on every side the difficulty is met that the boys really do not want to be "saved". They love the wandering life just as do the many wandering young men at home who ride the rails. Lack of facilities is not the main reason why we see them, in many instances they run away from home deliberately, as is evidenced by the advertisements in the papers asking for information about sons who have run away. Of course the work of rehabilitation is hampered by the difficulty in getting trained persons to care for the boys, but a very great service has already been performed. I hope next spring when I can speak the language better to visit one of the institutions near here, as rehabilitation of criminal elements is of course very closely associated to the work of any lawyer or jurist . . . the other evening I was sleeping lightly as has been my custom ever since my trip around the world when not only your property but your life depended on it, when I saw a beam of light sweep across the ceiling. My room happens to be on the ground floor, although I can assure you it was not chosen for that reason. The window is some six feet from the ground. I immediately woke, and reached for the flashlight I always keep by the bed for use in tracking down the bed comrades who on occasion appear. But by that time one of the boys was standing in the window, outlined by the light of the flashlight his comrade was projecting from behind him. It was a rare sight, and of some awe inspiring proportions, as I have been told that they all carry long knives which they are not loath to settle in your ribs. But one flash of my light right in his face was such a surprise that he jumped down and disappeared. Friends warn me that now we have made the acquaintance, it

will probably be repeated, so if my vigilance perchance relaxes you may look for a coffin next spring. But I refuse to follow the usual custom of sleeping with windows closed, and hope to rig up some contrivance to let in the air and keep out the boys.

I had the second of my conferences with the Professor [Korovin]. He is a most scholarly man and well schooled in the Marxist attitude, and the reasons given by the authorities for various steps taken. I had read the material he had given me, which covered a wide variety of fields, and with that as a basis we went over a great deal of ground giving me a chance to pull out ideas on about every subject I could think of. He informs me that he is now giving a course in the history of the development of International Law. As it is the first time any such course has been given here, there are no case or text books, and he has been writing resumes of his lectures as he goes along. By February, they hope to be up to the Middle Ages, and I sincerely hope that I can by that time attend, for it will fill a gap I have long felt . . . After the sessions his wife comes in and we have good old tea and cake and a very pleasant practice session in Russian . . .

November 8, 1934

. . . I find myself being caught up in the spirit of the country. They have something to work for and it is their ideal. Every success no matter how trivial is cause for great rejoicing, and their dreams for the future lead them on to hopes which would seem fantastic if one has not seen equally fantastic dreams take shape in concrete and steel. An entire boulevard was laid in a week to be ready for the holidays. Two huge buildings were wrecked and the remaining ones finished off to fit in with an architectural plan for a Square. This all happened in two weeks, and the actual finishing off of the remaining buildings was done in a day. This spirit is carried over into the scientific works, among which the study of law is classed. My work in the libraries of the Institute brings me in contact with young men and women reading long hours working not for themselves alone but for their country. Life in this family shows me children growing up in the spirit of the revolution. None could be happier with the simple surroundings they have. Of course there are lots of things which attract one's attention as a possible subject for improvement, but one has only to think of equally difficult problems in America . . .

November 24, 1934

Professor Korovin granted me the privilege of an evening with him during the past week. I had postponed it a few days to give him a chance to finish his new book on Japanese treaties as compared with their subsequent acts. The publishers had been clamoring for it. But the few extra days made it possible for me to read all available material in languages I can understand on the Marxian theory of the State. This I supplemented with the reading of a lecture by Lenin printed in Russian. I sincerely hope that there will come a time when I can get more out of a Russian text than I got out of that one, but at least I could get the idea and see that my guess as to what he would say was about right. I wrote up a short thesis covering my understanding of the theory, then translated it into French, and went prepared for anything. As a matter of fact he said that he felt that I had caught the general principles, and then he augmented my exposé with some further explanations . . . The most recent (October) issue of the *American Journal of International Law* contains an article by Professor Brown of Princeton commenting on the Soviet attitude toward International Law. That article comes very near to presenting the accepted thesis, and although one may not agree with the writer's conclusions, his information apparently comes from an authentic source.¹ A few days later I had occasion to chat with another Professor of Law about this same attitude. He was inclined to discount any such fine spun theory as is presented in that article and take the view that the reason the Union would accept no law which was not part of a treaty or incorporated in a statute was because for practical purposes no one can rely on customary International Law, since every country has a different conception of which are the most binding precedents, and how many precedents it takes to make it customary law. Therefore the Union demands that the law be written down in a treaty, and they do not demand this merely because application of customary law would be in reality application of bourgeois law, as is Professor Brown's explanation and the explanation I have heard elsewhere on this side . . .

January 20, 1935

An eventful week this has been for me, for with the start of the second term at the Institute of Soviet Law I began attendance at two of the lec-

¹ Hazard here refers to Philip Marshall Brown's editorial comment, "The Russian Soviet Union and the Law of Nations," *American Journal of International Law*, XXVIII (1934), 733-736.

tures. Conferences with the Director and Assistant Director resulted in permission to attend, and the suggestions of Prof. Korovin and his colleagues were useful in formulating a plan of study . . . I will take Professor Korovin's course in the History of the State, and the course in Criminal Law. Both courses are recommended not only because they deal with basic subjects, but because the Professors in both instances are excellent linguists. The course on the History of the State has the added advantage of dealing with material with which I am not wholly unfamiliar. Then, too, I shall have an opportunity to discuss the material at my regular bi-monthly conferences with Professor Korovin. The course will develop the Marxian theory of the State drawing from history the material necessary to prove the theory and interpreting these periods of history in the orthodox Marxian manner . . .

It was not without a slight feeling of awe that I approached the building for the first lecture. I had been advised that the lecture would start at one o'clock in the large auditorium and continue two hours. The Institute occupies a comparatively imposing looking building built right up to the street. The ground floor contains a vestibule in which is a check room, in which one is required to check all coats, rubbers, etc. (Harvard would do well to copy this feature). After checking these articles the student passes through a small gate, guarded by an attendant, to the offices of the Staff and Faculty. Above these on the second floor may be found the large auditorium, seating some four hundred persons, seven large seminar rooms seating about 35, and a reading room. On the third floor is the library. Contrary to the American custom, hours of classes do not remain the same throughout the year. Each month a list of lecture hours is posted, and these lists vary considerably from month to month. Nor are the lectures always at the same hour, nor at regular intervals. Today the lecture may be at 1:00; tomorrow at 9:00 and three days later at 11:00. Nor are they spaced at regular intervals, for they may come in quick daily succession for a few days, and then will follow a gap of three or four days. Knowing that it might be hard to find my way around the first time, I arrived about ten minutes before the hour. When the electric bell rang at one, and the preceding class dashed out of the auditorium, no one was around to go in for the next lecture. But by this time, having become acquainted with life here, I went right in, feeling sure of my hour and place. Soon another Professor came in and opened his notes at the huge reading desk. I thought I had surely made a mistake, but sat on. Then a few students sauntered in. One in full uniform went up to the piano, back of the reading desk on the platform and began to play some popular tunes from the latest talking picture. Two girls went up on the stage to join him and began singing. This concert