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Reappraising American Legal Education Through a Comparative Study

Stanley A. Samad*

THE CURRENT FERMENT in American legal education has been stimulated mainly by the American realists and a recent offshoot of that school, called policy science. The thrust of their reproof is that law to be studied is not to be found in the case-book and the law library, but is to be found in "law in action" in the context of economic, moral, political, psychological and social forces that shape law and the process of decision.

Some have stressed the role of the lawyer as policy maker, or as counsel or adviser to policy makers, and have developed a suggested curriculum "to promote the adaption of legal education to the policy needs of a free society."¹ A recent consensus of legal educators is that the aim of American legal education is to develop lawyers who shall assume the role of "legal statesmen" as well as developing even better "legal craftsmen."²

The following comparative study will provide valuable insights into how foreign legal education attains balance between academic and cultural training in law as a learned discipline, and professional and practical training for law as a learned art.

Primary and Secondary Education

The system of primary and secondary education in England, Scotland, France, and Germany, in comparison with that in the United States, is superficially alike: it is free (essentially), compulsory from childhood to young adulthood (sixth to fourteenth or eighteenth year of age), tax supported, lay, and neutral. Private, sectarian education is accommodated. The period of primary education is roughly of six years' duration (sixth to eleventh or twelfth year of age), and the period of secondary education is of approximately seven years' duration (eleventh or twelfth year of age to the eighteenth year of age).

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[The substance of this paper recently was submitted by the author in the Seminar in Roman and Comparative Law, New York Univ. School of Law, Special Summer Program for Law Teachers.]

¹ Lasswell and McDougal, *Legal Education and Public Policy: Professional Training in the Public Interest*, 52 *Yale L. J.* 203 at 243 (1943).

² See Joiner (ed.), *The Law Schools Look Ahead* (1959).

Though superficially alike, there are two fundamental differences in the foreign and American systems. The first difference is in the screening of those who will attend the foreign university at a much earlier age than in the United States, and well in advance of the completion of secondary school. Secondly, foreign secondary education is said to produce a better educated product than the equivalent American program.

The English "eleven plus examination" illustrates the process of screening in its severest form among the countries under consideration. The results of this examination, which comprise formal examinations and intelligence tests, together with interviews with the student and the opinion of his teachers, determine whether he will enter Grammar School (the academic program which leads to the university) or the Technical School (which is broadly vocational and leads to a career in industry or commerce) or the Modern School (which terminates at the fifteenth year of age for those with no particular aptitude for academic or technical education).

Those who attend Grammar School take a comprehensive examination at the end of the fifth year leading to the General Certificate of Education (G.C.E.). Then the student who intends to enter the university continues into the sixth year in which he narrows his training; the intending student of law would study history, English, and Latin. He then takes an advanced examination. Although a student may enter a university with an ordinary pass, an advanced or high pass is usually necessary to enter a "prestige" university such as Oxford or Cambridge, and to get a scholarship from the government.

Scottish secondary education is quite similar to the English. Upon completing the senior program at the age of seventeen or eighteen, the student will take an examination given by the Scottish Department of Education leading to the Scottish Leaving Certificate. This is awarded on the basis of the results of his examination and an assessment of the student's achievements by his instructors.

A state leaving certificate is awarded in Germany to those students who complete a secondary program comprising seven years after a six year primary program (or nine years after a four year program in some Länder), and who pass the state examination. The academic programs that lead to the state leaving certificate, and therefore to the university, are the classical secondary (wherein Latin, Greek, and one modern language are

stressed), the modern program (with Latin and two modern languages), and the scientific (with two modern languages, mathematics and science). The quality of the pass is immaterial to the privilege of entering a German university program in law.

In France, a *baccalaureat* degree caps the secondary educational program and is the first degree. It is prerequisite to entering the university. The French system of secondary education is in two phases. The stress of the first four years is upon general education and orientation; the stress of the last three years is upon specialization leading to the *baccalaureat*. The French secondary program comprises French history and geography and courses in one of the following categories: Latin, Greek, and one modern language; Latin, two modern languages, and mathematics; or Latin, mathematics, physics, and one modern language.

The American student ordinarily merits a diploma by passing each of sixteen units or courses in the secondary or high school, without the requirement of passing a comprehensive examination. Those students planning to enter college take a college preparatory program which generally includes three to four units in English, one unit in mathematics, three units in social studies, one unit in the natural sciences. The American student usually has not specialized. The quality of his work is not material to his right to enter upon university training, although, as in England, it may determine the particular university that he may enter and the ability to obtain a scholarship. College entrance examinations measuring aptitude, interest, and achievement are nearly universal and serve an important function in the screening process.

Completion of foreign secondary programs is often equated with the completion of the second year of an American university. In this sense, the student in England, Scotland, France and Germany who enters the university law program directly from secondary school has the equivalent of two years of "pre-legal" education. The American student entering law school will have completed at least three years of "pre-legal" education, and more probably will have a baccalaureate degree.³ In any case, the American law student begins the study of law with greater maturity, academically, biologically, and socially, than does the first year law student in a foreign university.

³ Fifty-five approved law schools require a baccalaureate degree as a condition of admission.

Study of Law in the University

The United States

Preparation for the practice of law in Colonial America, Harno pointed out, was desultory.⁴ A few intending members of the bar attended the Inns of Court. For the most part, preparation was through an apprenticeship system in the offices of members of the bar and the reading of great books on the common law, *e.g.*, Blackstone's *Commentaries*. At the same time chairs of law were established in several American colleges and universities (William and Mary, Harvard, Columbia, and Maryland); these were to develop, in time, into departments and then into schools of law. But Litchfield, the first American law school, founded about 1784, was an offspring of the office-apprenticeship system, without university affiliation. Litchfield and other similar schools were significant for several reasons. The instruction was exclusively a creation of practitioners, and was systematized. More important, these schools temporarily served students who wished formal instruction in law at a time when the universities were not yet prepared to give it.

The subsequent development of the university law school is intimately tied to the rise in bar admission requirements. Harno observes that "The Colonial lawyer had little professional consciousness and was apathetic on the question of admission to practice . . . Gradually the feeling developed that the profession was and by the very nature of its calling had to be a learned one."⁵ During the period from 1767 to 1829, many states adopted certain standards for admission to the bar. Although these standards evidenced an awakening sense of the profession's responsibility to the public, their immediate influence was short-lived, for they were in the main swept away by the political and social upsurge of the Jacksonian period.

The history of the university law school in the United States has been, in the main, the history of the Harvard Law School. Story was appointed the Dane Professor of Law in 1829 in the tradition of the Vinerian Professorship of Blackstone at Oxford and soon Harvard had a law school.

Langdell's publication in 1871 of the first American case-book, *A Selection of Cases on the Law of Contracts*, produced

⁴ Legal Education in the United States, esp. pages 1-50 (1953).

⁵ *Id.* at 33.

Harvard's next innovation. Although the case method was accepted enthusiastically by Langdell's colleagues at Harvard, both the bar and teachers in other law schools were vigorous critics. But it soon spread to other law schools. James Barr Ames, one of Langdell's pupils, popularized the case method by his skill in the selection of cases, the annotations to the cases, and use of cases along with his lectures and essays. The case method soon became the distinctive pedagogical tool of American legal education.

The close of the nineteenth century marked the end of the dominance of the tutelage system of law office training, and the beginning of the dominance of law school training.

From the point of view of the foreign observer, American legal education is "professional," *vis-a-vis* the "academic" law program in France and Germany. The epithet is appropriate in view of the historical development of the American law school as the successor to law office training, the fact that a law degree is prerequisite to taking the bar examination, the control exercised by legal accrediting agencies, the stress in the curriculum on bar examination subjects, the stress of learning law in the context of litigation through the case method, rather than upon the study of law historically and institutionally through the lecture method, and the fact that the law school curriculum comprises mainly legal as opposed to cultural subject matter.

American legal education in the twentieth century is marked on the one hand by the evolution of the forces that had their origin in the preceding century, and on the other by a criticism from different sources of the effect of these forces. Most of the accredited law schools are university connected. They are frequently criticized for teaching practical skills; they are also criticized for not teaching enough practical skills. The uniquely American institution of the part-time law school which began at the end of the nineteenth century and which had its greatest growth after the two world wars is consistent with the democratic ideals rooted in Jacksonian democracy and the Lincolnian image of the poor boy unable to afford day school education. Yet part-time legal education has been subject to frequently uninformed criticism that admission standards are unduly liberal and that these schools stress practical skills too much.⁶ Great strides

⁶ See, Oleck, Facts and Fictions About Evening Law Schools, 12 Clev-Mar. L. R. 1 (1963).

have been made in professional accreditation of law schools. Yet college administrators through the National Commission on Accrediting assert that the professional accrediting societies have a standardizing and therefore stultifying effect on the development of the American universities. The case method in the context of the Socratic dialectic has been hailed as both a scientific and critical tool of thought; yet critics have labeled it as tedious and wasteful in the time that it consumes.

England

Dean Griswold remarked in an address to a group of American and English lawyers and teachers, "For the past several years, I have tried to understand their (English and American legal education) relation and interrelation. It is obvious that they have much in common . . . Yet, English legal education still baffles me."⁷ The key to understanding English legal education lies in the study of some four hundred years history of the Inns of Court between 1300-1700, the recognition of a hiatus in English legal education as the Inns reached their nadir during 1700-1850, and the superimposing of English university education on the traditional education conducted by the practicing professions during the past century. The result is three or four relatively independent but interrelated patterns of education for the professions of law. A university degree is yet not prerequisite for admission to the bar of the Inns of Court, nor to practice as a solicitor. However, the concessions made to the intending barrister or solicitor by reason of a university degree in law indicate that university training in law is a desideratum.

One may be admitted to the bar by showing a satisfactory general education (an English Grammar School education or its equivalent), by matriculation at one of the four Inns of Court, and by passing a preliminary and a final bar examination. The education necessary to the passing of the bar examinations may be gotten by attending the lectures offered by the Council of Legal Education. Students from the Commonwealth countries and graduates of a faculty other than law usually obtain admission to the bar in this fashion.

Until recently, one could become a solicitor without university education. The training of a solicitor was, and is, more

⁷ Griswold, *English and American Legal Education*, 10 *J. Legal Ed.* 429 (1958).

stringently regulated than that of the barrister. Unlike the barrister, the solicitor has the initial and direct contact with the client and owes the client a duty of reasonable care. The barrister, who is selected by the client's solicitor, has contact with a client only through the intermediation of a solicitor and owes no duty of care to the client. To become a solicitor, the intending student must have attained a satisfactory general education and be a British subject of good character. He must then find a solicitor willing to take him in as an articled clerk for a period of five years. In the case of persons who have earned a university degree before undertaking articleship, the period is reduced to three years. He must take two examinations, the Intermediate and the Final. The Final Examination is taken immediately preceding the expiration of his term of articles. If the clerk has the university law degree, he is excused from three of the four papers in the Intermediate Examination, and will have to take only trust accounts and bookkeeping.⁸ Courses for preparation for these examinations were offered at schools approved by the Law Society. Attendance at an approved law school for one year commencing within fifteen months from the beginning of the period of articles is required.

University training in law has been conducted only for about a century at Oxford and Cambridge, and for a much shorter period of time at some seventeen other universities in England and Wales. Some Englishmen continue to doubt the propriety of teaching law in the academic setting of the English university. Comparatively, English law training is less academic than that in France and Germany and less professional than that in the United States. The aim of English legal education is to give a thoroughly scientific training in law. The training is the same for the intending solicitor and the intending barrister.

The minimum period of time for the completion of a degree in law is three years. The student who desires work in another faculty may devote four or more years to the program; the student desiring a second law degree will normally devote four years to the entire program. The curricula at Oxford and Cam-

⁸ The omitted parts are: Elements of the Law of Real Property; Principles of the Law of Contracts and Elements of the Law of Torts; Public Law, comprising the Law and Customs of the Constitution, the History and Organization of the Courts of Justice, the Organization of the Legal Profession; Elements of Procedure and Criminal Law; and the Law of Evidence.

bridge stress Roman law, introduction to the English legal system, constitutional law, international law, jurisprudence, criminal law, contracts, torts, and real property.⁹ Absent from the curricula are subjects that are nearly universal in American law schools: pleadings, evidence, and trial and appellate practice (adjectival law); public law courses (other than public international law); and courses that are essentially statutory (business association, commercial law).

Both universities are "reading" universities. The student is expected to read widely and perceptively in his field of endeavor. The emphasis is on the student's recognition and retention of broad and pervasive ideas, and informational detail that can be readily memorized by cramming, and as readily forgotten, is minimized. The English universities stress the lecture method of presentation of materials, although these lectures are less monological in their presentation than those in French and German universities. As in France and Germany, attendance at these lectures is not compulsory.

The lectures and readings of the students are complemented by the tutorial system which is especially valuable for the intimate contact between student and teacher, the training in oral and written articulateness, the constant check on the progress of both teacher and student, and the important aspect of the decisional process of the legal arena. Although the German and French law faculties have developed a practicum, continental practicum lacks the intimate student-teacher relationship that the tutorial system affords.

Scotland

The requirements for entrance into the legal profession in Scotland parallel those in England. The profession is divided into advocates and law agents or solicitors. A university degree is not prerequisite to admission to either branch of the profession. A degree in law exempts the intending barrister from the bar examination and reduces the period of articleship of the law agent or solicitor from five to three years. These concessions provide a powerful inducement to the student's obtaining a university degree in law.

Until recently, the Scottish system of legal education incorporated, according to Professor T. B. Smith, the best features

⁹ The list of subjects is not exhaustive.

of none and the worst features of each of the English and continental systems. Professor Smith's criticism of the Scottish system was in terms of a high percentage of part-time teachers, working students, professional objectives and control, and a compromise curriculum—criticisms that can be made of many American law schools. The Universities of Glasgow and Aberdeen have taken steps to remove the causes of the criticism, and the Universities of Edinburgh and St. Andrews are expected to follow. The reform that has been undertaken comprises the elimination of the anomalous B.L. degree in favor of the LL.B. degree (without first obtaining a degree in Arts), compulsory full-time study, the relegation of practical training to the period after the award of the LL.B. degree, the development of a four years' honours degree, and the employment of more full-time teachers. Mr. Walker describes the objectives of the new program as "A broad, general degree which can include, but will not be limited to, all legal subjects which an intending advocate, solicitor or accountant requires to satisfy his professional requirements, or it can be more academic and general."¹⁰

France

The decree of March 27, 1954 effected the first major change in French university education since 1922.¹¹ That decree established two distinct cycles of training leading to the *licence en droit* and extended the period of study from three to four years. The two phases of university training in law reflect the duality of the French objective: general or cultural training of a sociological character, based upon instruction in law and economics and a more specialized program in three branches—private law, public law and political science, and economics—depending on the career objective of *avocat*, high level civil servant, or business leader. Upon the completion of the first phase, the *certificat de capacité en droit* is awarded; on the completion of the second phase, the terminal degree of *licence en droit* is granted.

The first year comprises juridical institutions and civil law (general introduction, including persons and the family), history of institutions and of societal facts, economics, constitutional law and political institutions, international institutions, and financial

¹⁰ Reformation in Scotland, 5 J. Soc. Pub. T. L. 16 (1959).

¹¹ (1954) Dalloz Legislation 141. See Dainow, Revision of Legal Education in France: A Four-Year Law Program, 7 J. Legal Ed. 495 (1955).

institutions. The second year comprises a continuation of the three principal subjects of civil law, and history of institutions and societal facts, economics, administrative law, labor law, and criminal law including business associations and social security, taken by all students. Thereafter, the curriculum is divided into three sections. For the remainder of the third and fourth year, the private law section takes civil law and procedure, criminal law and procedure, Roman law and old French law, advanced commercial law (including bankruptcy and business taxation), private international law, and an elective full year course.

The French employ the noncompulsory lecture as the chief pedagogical technique. In the fashion of the German system, a program of practical education (*enseignement pratique*) for which attendance is compulsory has been added in the last twenty years. However, the principal place in university education in law is given to academic study, and the practical training is developed in the "stages" of apprenticeship.

Germany

The German university instruction in law comprises a period of three and one-half years. Husserl describes the program as "professional," yet including studies in social sciences and economics.¹² However, Husserl did not use the word "professional" in the sense of "vocational." At the University of Freiburg, for example, the study of law comprises seven required subjects and two or more electives. The required subjects are jurisprudence, political science, Roman law, public law, criminal law, private law, commercial law, and economics. Elective courses comprise legal history, political philosophy, comparative or foreign law, insurance law, agricultural law, arbitration, state constitutional law, municipal corporations, juvenile court law, and a wide variety of Roman law subjects.

The method of instruction is the noncompulsory, monologic lecture. In addition, seminars for advance students, the voluntary *Praktika*, and *colloquia* and *conversatoria* are provided to elicit the active oral and written participation of the student. The *Praktika* provide an opportunity for the discussion of selected cases by teacher and students, and the submission of written solutions to the assigned problems.

¹² German Legal Education in a Changing World, 3 J. Soc. Pub. T. L. 146 (1956).

Unlike the other systems under discussion, the period of study in law is not capped by the award of a degree, unless the student desires to enroll for further work leading to the doctorate degree in law. Rather, the student takes the first state examination, commonly called the *Referendar* examination, after the period of academic study. The examination is tripartite: the first part consists of a thesis called a home paper (*Hausarbeit*) prepared in from four to six weeks; from three to eight written examinations on a case or on a theme, each of five hours' duration, comprises the second part; a four-hour oral examination is the final part. The regulations specify a long list of fields in which the candidate is subject to examination. In some fields, the student must demonstrate a thorough knowledge of the subject matter; in others, he must show only knowledge of general principles.

The recent *Report on German Legal Education* is mildly critical of German legal education.¹³ Two principal objections are the nonselective admission policy to the university program in law, and the need for a drastic reduction in the number of subjects of the *Referendar* examination. The multiplicity of subjects of testing and the ill-defined distinction between thorough knowledge of the subject matter and mere knowledge of general principles induces the candidate to spread his efforts thinly over a broad area of subject matter. Husserl adds a third objection, that university education in law lacks a broad cultural base.

Apprenticeship and Admission to Practice

Admission to the bar and to the practice of law in the United States is upon the basis of successfully completing the LL.B. (or equivalent) program and the passing of a bar examination, generally without the requirement of a period of apprenticeship. The curricula of the American law schools is vocationally oriented, so that the student gains information in the basic substantive and adjective principles of the law; develops insights into legal institutions, legal method, and professional responsibility; develops dialectical skills in fact discrimination, case and issue analysis, legal synthesis, and issue disposition; gains technical skill in legal research and writing, advocacy and draftsmanship; and learns integration of skills in terms of legal planning, legal

¹³ Shartel, *Report on German Legal Education*, 14 *J. Legal Ed.* 425 (1962).

counselling, and representation of legal interests in legislative, negotiatory, and adjudicative proceedings. These skills, however, have been developed in the hypothetical and therefore unrealistic setting of the classroom, and not in the living arena wherein actual litigation takes place. The young lawyer must, therefore, conduct his own apprenticeship in the early years of his practice with such aids as continuing legal education (by law schools, local, state, and national bar associations), the written monographs of the American and Practising Law Institutes, and the paternalism of the bench and the senior members of the bar. Thus, apprenticeship is voluntary, informal, unplanned, and unregulated.¹⁴

By way of contrast, most European law training comprises two equally important parts: a nonprofessional course of study under the law faculty of a university; and that provided for in courts, law offices, and administrative agencies by an elaborately defined system of apprenticeship or in service preparation. In England and Scotland, the apprenticeship is oriented for professional practice as barrister or solicitor, and not as judge. In these countries, as in the United States, judges are selected from the practicing profession. In Germany, the training for a judgeship is the instructional prototype for each of the many branches of the profession, both in the academic and practical phases of preparation. In France, a candidate for the judiciary can prepare by obtaining the *licence en droit*, and then, after a short period of practical training, taking an examination to qualify either as *juge de paix* (justice of the peace) or as a judge of a court of general jurisdiction. Training for other specialists in the French legal profession is not uniform. David and de Vries observe that the French "bench and bar, in contrast to that in England and the United States, are separated by a formidable barrier of differences in temperament, training, and approach. The French judge feels a far closer kinship with the professor of law than with the *avocat*, whom he tends to regard as a mere rhetorician."¹⁵ On the other hand, the uniform training of the various

¹⁴ Pennsylvania requires a short period (six months) of training in a law office before the law graduate is admitted to the bar. These efforts to give practical instruction are neither typical of the general American system nor too important in scope. It should be noted that New Jersey recently authorized use of a skills and methods course in lieu of its formerly required clerkship. N. J. Sup. Ct. Rule 1:20-7A.

¹⁵ The French Legal System, 18 (1958).

specialties of the German legal profession in the model of the judge results in the German lawyer's having, more so than the English barrister or American lawyer, "the official point of view and attitude."¹⁶

In England and Scotland, where the legal profession is divided into barristers and solicitors, the "in service" training is controlled by the professional associations. The solicitor, as has been mentioned previously, must complete five years of articulated apprenticeship in the office of a solicitor, unless he has a university degree in law. In that event, his period of training is reduced to three years. A final examination coinciding with the end of the period of articles must be passed.

The intending English barrister must keep terms at the Inn of Court at which he seeks admission for a specified number of nights during twelve terms, or three years, by dining in the Hall of the Inn. Thus, he meets his fellow students and senior members of the profession for the purpose of learning the traditions and etiquette of the Bar. A university student will begin the keeping terms before he has been graduated. After the barrister has passed his final examination, he will work in a barrister's chambers for a year. He will thus have the run of his master's papers, go into Court, sit in on conferences, and generally will learn by precept and example what is required of a barrister. In view of the shortage of opportunities for in service training, particularly for students who do not intend to practice in England, the student may attend lectures conducted by the Inns for a year in lieu of service in chambers. Thereafter, the barrister will seek chambers to practice his profession.

The German student, upon passing his first state examination, will seek an appointment, for a period of service as a *Referendar*, from the President of the State Supreme Court for the District (*Oberlandesgericht*) in which he intends to practice. His official acceptance gives the applicant the standing of a temporary public servant (*Beamter*) with regard to disciplinary questions, and as such he receives a support allowance that is quite adequate.¹⁷ But it does not assure him employment upon the termination of his period of training. During the three and one-half year period of internship, he is expected to master the practical aspects of

¹⁶ Shartel and Wolff, *German Lawyers—Training and Functions*, 42 Mich. L. Rev. 521, at 525 (1943).

¹⁷ Shartel, *op. cit. sup.*, note 13, at 464 (footnote 76).

the law through a variety of experiences. He participates in court sessions, works in different offices connected with the law, including that of the lawyer (*Rechtsanwalt*), prosecutor, and notary (*Notar*), and in the field of public administration in which there may be an administrative court. He is expected to continue with the study of law through independent work as well as by attending special seminars.

The *Referendar* can then apply for admission to the second, or great, state examination. The examination is to determine whether or not, on the basis of his factual and general knowledge as well as his practical training, he has the ability and the personality to handle matters in judicial office or in higher administrative service. Upon passing this examination, he is entitled to the designation of *Assessor*.

But the process of his education is not at an end. He must now apply for appointment to, or employment as Legal Scholar,¹⁸ Judge, Prosecutor, Referendar, Administrative Official, or Business Advisor. The judicial offices, civil service posts, are filled on the basis of merit, in which the applicant's rank on the *Referendar* examination is the touchstone. Those who desire to serve as judges or public prosecutors must serve as *Gerichtsassessors* until a vacancy occurs to which they may be appointed. Those who desire to become public administrators serve as *Regierungsassessor* until they receive a permanent appointment. Candidates desiring to become attorneys serve as assistants to licensed attorneys, and are called *Anwaltsassessor*. Upon completing the required term—usually two years in which six months are spent in the attorney's office and the remainder in the courts—he may apply to the President of the appropriate *Oberlandesgericht*, or in some states to the Ministry of Justice, for a license to practice law in the status as a *Rechtsanwalt*.

In Germany, as in the United States, there is no division of function between barrister and solicitor. The *Rechtsanwalt* may try cases, advise clients, and draft papers and documents. The *Rechtsanwalt* who specializes in the drafting of instruments under the jurisdiction of the courts of the first instance is known as *Notar*.

¹⁸ The Legal Scholar will complete his doctorate in law and will spend three years or more in completing another thesis which he submits in order to be admitted to a university faculty as an instructor (*Dozent*). See Shar-tel and Wolff, *op. cit. sup.*, note 16, at 522.

The choice of an area of specialization in the German legal profession is virtually irrevocable. Although official permission to change a specialty may be granted, it is infrequently sought, and even less frequently granted.

In France, the legal profession is divided into three specialties: *avocat*, *avoué*, and *notaire*. The intending *avocat* must obtain his *licence en droit* and a "Certificate of Aptitude for the Profession of Attorney." The certificate is awarded by the faculty of law upon the passing of an examination. The examination is administered by a lawyer, judge, civil servant, *avoué*, and a member of the law faculty. The examination comprises procedural matters, rules and practices of the profession, institution of cases and service of process, other phases of professional activity, and a literary or philosophical thesis. The examination is highly competitive, for the number of apprentices or *stagiaires* who can be accommodated is limited.

The in service training of the *avocat* consists of five stages or years. During the first stage, the intending *avocat* may make no courtroom appearance as a counsellor and can give no advice, but must attend lectures, court hearings, and debates. His second stage is spent in legal aid service. During the next three stages, he may hold himself out as an *avocat stagier*, or apprentice attorney, and may earn fees. Although the *avocat stagier* may be admitted to the rolls at the end of the third stage, he is normally admitted at the end of five years. No further examination is required for admission to the rolls as an *avocat*, but he will be excluded for dishonesty or serious mistake, and his admission may be delayed for failure to attend the required lectures.

The *avoué* has a monopoly on procedural paper work and on the details of directing service of process. He practices with respect to one court. His minimum academic training is the first two years of the new four-year program, for which the university awards the *certificat de capacité en droit*. The intending *avoué* must serve for five years as a clerk to an *avoué*, and in the office as chief clerk for two years. The number of offices of *avoués* is limited to those created by Henry IV. Therefore, the office must be purchased from an *avoué* or his estate under the supervision of the *compagnie des avoués*.

The French *notaire*, like the German *Notar*, is an important legal specialist. He practices in an area of the territorial jurisdiction of the court of appeals, civil court of first instance, or

justice of the peace, as a public official. He authenticates all documents that require notarization, keeps records and delivers copies thereof, prepares marriage settlements, and is a specialist in conveyancing and investment counselling. The *notaire* attends either the *l'ecole de notariat* or the university program leading to the *certificat de capacité en droit*. He must serve a period of apprenticeship in the office of a *notaire* and pass a professional examination. Like the office of *avoué*, the number of notarial offices is limited, and one must purchase the office.

Conclusion

This brief study of the English, Scottish, French, and German systems of legal education indicates dissimilarities not only in the content and aims of university education in law, and in professional qualifications and teaching methods but also in the content of the legal rules, the function of the attorney in law development and reform and the manner of recruiting judges. Nevertheless, there is a striking measure of agreement concerning the problems confronting those responsible for the education of the bar. The principal problem is whether law should be taught as science, or philosophy, or an element of social life, or as technique. When the stress of teaching law as science, philosophy, or sociology is selected, the problem remains of balancing this aim with the vocational aim. The foreign systems under study strike the balance by teaching law as an essentially academic or scientific study in the university and a subject of practical or vocational study through supervised internship after the university degree. Legal education in the United States has developed as a study of law "professionally" or vocationally. Yet, the modern concept of an adequately trained professional in law is that of both a competent craftsman and a legal statesman, or policy maker, or law reformer, as well.

The solution would seem to be to study law as an academic or scientific discipline in the university connected law school, as in England and on the Continent, and not as a professional art. In that event, additional time and training will be required to develop the vocational aspect of legal education. Apprenticeship or in service training in the private law office does not offer an adequate solution. It has never gained favor in the United States, and when compulsory clerkship has been tried it has not been particularly successful.

A solution worth consideration is that of compulsory post-graduate "vocational" study as a supplement to the academic studies at the university. In general, this could be modelled after the program of the English Council of Legal Education providing in-service training for barristers by lectures which the Council sponsors and supervises.¹⁹ These lectures appear to be thoughtfully conceived, well executed, and successful in meeting their aim. This form of postgraduate education also appears as part of the in-service training in France and Germany. It is similar in aim to the voluntary programs of continuing legal education that have become a part of the American educational scene, but the lectures here contemplated should be compulsory, and supervised by an appropriate agency. Should additional training of a clinical nature be thought desirable, the legal aid and public defender societies which are to be found in most urban communities will provide adequate opportunities. For the many law graduates who do not wish to practice law but who seek a career in business or in government, no period of training beyond the law school need be required.

¹⁹ See Wheatcroft, *The Education and Training of the Practicing Lawyer in England*, 30 *Bar Exam.* 3, at 13 (1961).