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# LEGAL EDUCATION IN GERMANY

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## LEGAL EDUCATION IN GERMANY.

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The only road to the bar in Germany leads through the university. An imperial law requires that all who present themselves for admission to practice must have studied law in a university for at least three years and at least half of this time in a German university. The several states of the empire may increase but cannot diminish this requirement.

As all the universities are state institutions, the professors state officials, and the state can and does make regulations as to the courses of study to be pursued it might be supposed that the university degree would entitle its holder to practice or at least be a prerequisite of admission to practice. This is, however, not the case. It is time spent, or misspent, at the university that counts. Each candidate, whether doctor of laws or not, must present himself before the official examining board and undergo the same examination.

German universities enjoy and deserve a high reputation, yet the complaint is general that the average level of the candidates for the state examination is a low one. Perhaps the reason is that while the universities give to earnest and diligent students abundant opportunities for learning, they also furnish unlimited opportunity for waste of time and misdirection of youthful energy.

Until very recently the law student in order to matriculate had to show that he was a graduate of a gymnasium, where he had spent nine years under strict school discipline, chiefly occupied in the study of Latin and Greek. It has finally been conceded that it may be possible to study law without a knowledge of Greek and the graduate of the Real gymnasium may now matriculate. This entrance requirement amounts to more than that of the Yale Law School but less than the college degree required by Harvard; perhaps the future Columbia degree of B.A. may be regarded as roughly its equivalent if President Butler's proposal to confer the degree for a two year course is carried out.

Once matriculated the student exchanges the discipline of school for almost absolute freedom. There is no curriculum, no recitations, no examinations except that in the remote future he will have to be examined if he concludes to apply for a degree. He is provided

with a list of subjects that must be studied before he can apply for admission to the bar, and to a limited extent the order in which they are to be pursued is indicated, but he makes his own choice of the lectures and exercises that he will attend and is free to attend or not as he chooses. As a rule the student elects several lecture courses and one "Uebung" for each semester, the latter being a Seminar or similar exercise in which he studies the sources under the direction of an instructor and commonly has to produce results in the form of written essays which are marked by the instructor and preserved for future use.

The professor enjoys a similar freedom. Each is required to give at least one course of lectures but the subject is in his own discretion. It follows that several members of the faculty may be simultaneously lecturing on the same subject, and also that in any given semester some important subject may be omitted altogether. As the announcement of courses for each semester is published some months in advance the student can discover which universities offer what he wants and can make his choice accordingly. It does not at all follow that because he originally matriculates in one university he will continue his studies there beyond the first semester and it is customary to change from one to another. One may even apply for his degree to a university at which he has never studied.

The conditions for obtaining a degree vary in detail in the different universities, but are substantially similar. At Berlin, for example, the candidate must present:

1. The certificate of graduation from the Gymnasium.
2. His certificates of attendance from the universities where he has studied.
3. A juristic dissertation, in German or Latin.
4. A brief autobiography, in German or Latin, stating his religious belief and the studies he has pursued.
5. A request to the faculty, in German or Latin, for the conferring of the degree.

The award of the doctor's degree (the bachelor's and master's degrees are unknown) depends upon the satisfactory nature of:

1. The dissertation above mentioned.
2. The written elucidation of a text from the Roman, German, and Canon laws respectively.
3. An oral examination.
4. A public disputation on the dissertation presented.

Fees amounting to 355 marks must be paid and the dissertation, *curriculum vitae* and diploma printed at the expense of the candidate.

A much larger number of those who have completed their sixth or seventh semester are interested in the state examination which admits to the practice of their profession than in the academic examination for the unessential ornament of the degree.

The examining board is composed of judges, university professors and practicing lawyers, a judge presiding and the board sitting in one of the superior courts. To the presiding judge the candidate must present a petition for admission to examination and with the petition:

1. The certificate of graduation from the Gymnasium.
2. Certificates of military service or exemption.
3. Certificates of attendance at the universities with such other certificates as are required concerning the character and number of exercises attended.
4. An autobiography, giving in particular an account of the candidate's university career and the subjects to which he devoted most attention; also whether, where and when the candidate has fulfilled his military duty.

Besides these there may be added:

5. Any other certificates concerning work done in the university "Uebungen," not included under 3.
6. The written essays produced in the "Uebungen," formerly referred to, if they have been marked by the instructors.

If all is in order and the candidate admitted to examination he is assigned a subject in a branch of law to be chosen by himself and is required to produce within six weeks a written dissertation upon this subject, after the approval of which he is subjected to an oral examination and if passed becomes "Referendar," in which lower grade he serves a sort of clerkship for not less than three years while looking forward to another examination as to his qualifications for admission to the full dignity of "Rechtsanwalt," which is pretty nearly equivalent to Counsellor-at-Law.

Certain undesirable consequences seem inevitable from this system of legal education. In the university the student is for the first time fully his own master, and knows that this happy condition will not last after he has quitted the university. As German human nature is not essentially different from American the majority of the students naturally make the early semesters joyous but hardly toilsome. The coming Referendar-examination hardly operates as an

incentive to work until the last two semesters and when it becomes imminent there is an attempt to make up by diligent cramming for the time lost in the earlier semesters, with the natural result of mournful comments upon the general low level of the candidates.

The remedy does not seem altogether easy to find. The Prussian government has been attempting to stir up the students to early diligence by the requirement of a "Zwischenzeugniss," or certificate of proficiency after the third semester, but the plan encounters many objections. An examination at this period is not to be thought of; that would be too serious a break with university tradition; what is wanted is a testimonial that the student has diligently and successfully attended a certain number of exercises and has taken part in them intelligently. One professor pertinently remarks that he does not see how he can tell whether the student is intelligent without asking him questions to find out what he knows, and that is an examination. It is asserted that the proposed inquiry into the student's proficiency must degenerate into a formality or degenerate into an examination; that it will interfere with the freedom of migration from one university to another and that if the lazy students are incited to greater diligence it will be at the expense of the industrious ones.

Academic freedom is a sacred thing to professor and student alike but it perhaps admits of some doubt whether the unlimited freedom of the German university provides the best possible professional training for the average man.

*Edward V. Reynolds.*