unlikely ever to be used against the Soviet Union, unless American, French or British territory is directly threatened. Until this truth is realized, and NATO force levels and doctrines reassessed accordingly, the present strategic doctrine provides, in the event of a Soviet attack, only two possible courses of action—suicide or surrender.

The most pressing imperative, however, concerns the future of European political integration. The principal members of the EEC continue to behave with appalling irresponsibility and lack of vision. While they drag their feet over every modest proposal designed to translate the dream of European unity into a reality, the steady advance of the Left in European politics continues. It seems, as I have said, now to be only a matter of time before Italy has Communist ministers and possibly even a Communist government; France has also to contemplate the possibility of some kind of Communist participation in its government before too long. If this trend continues, NATO, in its present form, cannot long survive; nor can the present relationship between the United States and Europe. Western democracy is in greater danger than it has been at any time since the 1930s. As the late Marshal Grechko knew perfectly well, when the fruit is ready to fall, there will be no shortage of people to shake the tree.

The American Case Method and Soviet Legal Education

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American lawyers have, through the medium of the ABA publications, had substantial glimpses of Soviet legal education over the years.¹ It is not generally realized, however, even by specialists in the field, that in the formative years of

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legal training in the USSR there was serious discussion about emulating the combination of Socratic dialogue and case method used to such advantage in law schools of the United States.

One of the early reforms following the Revolution of October 1917 was to revise the admission requirements for institutions of higher education so that students of proletarian and peasant background would find access easier. But throughout 1918, university law faculties continued to teach essentially as they had before until, in the RSFSR at least, they were formally abolished in March 1919 and replaced by faculties of social sciences which offered lectures in law, history, and other disciplines. The teaching of law was provided for despite profound hostility among some members of the RSFSR People’s Commissariat for the Enlightenment; the people’s commissar, M. N. Pokrovskii, himself argued at the time that “the science of law was an attractive jacket which concealed the enslavement of hundreds of millions by tens of thousands... of course, for socialist Russia all such ‘sciences’ are completely useless.”

Instruction in Soviet law was no easy matter. The law itself, as one Soviet jurist wrote, “was in an episodic state.” Inadequate facilities and teaching materials in the early 1920s were further aggravated by an acute shortage of law teachers occasioned by the departure of most of the pre-revolutionary teaching staff during this period. The transition to the period of Soviet history known as the New Economic Policy (1921-28), accompanied by the codification of many branches of Soviet law and a need for trained lawyers, meant that more formal standards and procedures in legal education would be required. In 1924 the faculties of social sciences were abolished, although their actual phasing out was not completed in some places until 1926, and full-fledged faculties of Soviet law were created at the principal universities: Moscow, Leningrad, Saratov, and Irkutsk, among others.

Law teaching was done principally by the lecture method, in the tradition of Tsarist Russia, western Europe, and indeed undergraduate American teaching, although at the insistence of Soviet students in the early 1920s there also was reliance on small seminars and discussion groups insofar as staff resources would allow.

The revival of Soviet law faculties occurred in the midst of a vigorous debate and experimentation in educational circles concerning methods of instruction. The lecture method had been under attack for the usual reasons: classes were too large; no opportunity for discussion or individual contact with the instructor; many teachers were poor lecturers; some subjects or materials could be

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2See Narodnoe prosveshchenie, nos. 23-25, 31 (1919), which reproduce Pokrovskii’s article and the relevant RSFSR legislation on higher education.
3M.M. Isaev, O vysshem iuridicheskom obrazovании RSFSR, SOVETSKOE PRAVO, no. 6 (1927), p. 111.
communicated more effectively by other methods; lectures were a survival of the Russian past; and so forth. The education authorities decided to abolish the lecture method completely and replace it with another teaching technique, also of American origin, known as the Dalton Plan, after the community of Dalton, Massachusetts, from whence it emanated. As understood in the Soviet Union, the Dalton Plan involved an instructor assigning a topic for students, who would then go away to read relevant materials on their own and produce a written report that would be read at a subsequent conference with the instructor. Once the knowledge called for by the topic was mastered, the student would give a general recitation before other members of the class. Proponents of the Dalton Plan believed that students obtained a more vivid and lasting impression of the assigned materials while proceeding at their own learning pace, and also that the method ameliorated hardships resulting from inadequate supplies of textbooks and student indigence.

However useful the Dalton method might be for other disciplines, many Soviet lawyers were deeply suspicious of its intention and concerned about its effects. Some, recalling earlier sentiment in the depths of the People's Commissariat for the Enlightenment to abolish law teaching completely, wondered whether the Dalton Plan was not another technique of accomplishing the same end. Law students, they believed, would be encouraged to cram and memorize materials from their books instead of responding to legal situations analytically. In the search for an alternative, an eminent Ukrainian administrative lawyer and law reformer at Kharkov University, A. F. Evtikhiev, wrote: “For us jurists, in my view, the American methods of teaching law are a way out.”

Evtikhiev described the essence of the American case method by quoting at length from a Report prepared by William I. Hammond for the American Bureau of Education in 1893, “On Legal Education in America.” To dispel any doubts about the accuracy and impartiality of a report prepared for an American government department (“One can doubt, of course whether this [case] method is impartially evaluated in official reports”), having in view perhaps his own adversaries on teaching methods in the people's commissariat, he further quoted from “a brilliant report” on the American case method prepared for the Carnegie Foundation for the Advancement of Teaching by an Austrian jurist, Josef Redlich.5

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5A. F. Evtikhiev, O noveishikh metodakh prepodavaniiia iurisprudentsii v shkole, Vestnik sovetskoi iustitsii, no. 7 (1926), pp. 284-286. Something of Professor Evtikhiev’s philosophy of a lawyer’s role is revealed in a quotation placed at the very beginning of his article: “Bad is that Soviet worker who, holding a different view than his leadership, puts his own special view in his pocket instead of directly and openly expressing it.” The quotation is attributed to N. A. Skrypnik at an All-Ukrainian Conference of Judicial Workers in 1922.

J. Redlich, The Common Law and the Case Method in American University Law Schools ([1914]).
Professor Redlich had given the case method an endorsement dear to any continental jurist's heart: "It imparts a scientific character to legal thought... [and to] the Common Law of America."6

In final support of his view, Evtikhiev gave a detailed account of a recent casebook on administrative law (1920) which he had received by courtesy of its author, Professor Ernst Freund (1864-1932) of the University of Chicago Law School. He was especially impressed by the principles applied in selecting cases for inclusion in the casebook. The specific features of American law emerge, he noted, and also "the general tone of official jurisprudence." But use of the case method, he cautioned, imposed duties on the instructor: it requires "... great creative work in the selection of the most characteristic decisions of courts and administrative institutions wherein are revealed the basic orientations of prevailing law and the thoughtful guidance of students in the legal analysis of cases suggested for resolution and in introducing into the course the basic principles of positive law." In America there exists, he added, a "special publishing house" devoted to publishing "textbooks especially adapted to teach this system."7

Evtikhiev did not contemplate the introduction of the American case method to the exclusion of all others. "In conditions of our Soviet life the method of studying law through the cases, it seems, is most appropriate. Of course, it can not fully replace lectures, which one must read to a limited extent, but primary attention should be concentrated on this practical method of studying law. The number of auditors in higher schools are by their intellectual knowledge and orientation inadequately prepared for reflective and theoretical thought, and this method will facilitate their mastery of legal concepts and theory." Moreover, he argued, "both legal concept and theory will become, in introducing the case method, closer to life and the positive law of the country since of necessity our professorial theoreticians will be obliged under this method to come closer to the conditions of Soviet reality."8

Whether there was actual experimentation with the case method is unknown. The Dalton method was abolished from Soviet educational institutions in 1932, the lecture method restored, and the latter together with some seminar work continues to be the predominant pedagogical technique for law teaching in the USSR. Indeed, Soviet law students are required to attend 30-32 hours of lecture per week, a schedule which leaves not a great deal of time for independent study.

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6Note 4 above, p. 285.
7Ibid.
8Ibid., p. 286.