

PHILOSOPHY OF LAW AND SOCIAL PHILOSOPHY

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1. In the theoretical – methodological considerations of the study of law in the sixties and seventies an important part was played by the studies on the specific traits and mutual relations of particular legal disciplines, as well as on the relations of the study of law to non-legal disciplines, mainly to philosophy and social sciences. Inquiries on these problems were undertaken both in the Western and in the Socialist science, not only in numerous individual scientific enterprises, but also in collective works, initiated by specially programmed conferences and symposia, having many a time an international range. The number of such works is so considerable that it would not be easy to give an exhaustive list of them.¹

What has brought about such development in the study of law and what were the objectives of these inquiries? On the one hand problems of the field of the study of law itself in connection with the changes this study is undergoing in the last decades are involved here. Among these matters one has to mention firstly the growing importance of basic research in the study of law on the path of its modernization and becoming “scientific”, in accordance with the general tendencies of the development of social sciences in our time. Hence the considerations on the theoretical and philosophical problems of the study of law, and comparatively on the relation between legal theory and legal philosophy.² The second important matter was the

¹ Comp., e.g.: “Communication sciences and law”, ed. *L.E. Allen* and *M.E. Caldwell*, Indianapolis-Kansas City-New York 1965; “Law and the behavioral sciences”, ed. *L. M. Friedman* and *Macaulay*, Indianapolis-Kansas City-New York 1969; “Rechtswissenschaft und Nachbarwissenschaften”, ed. *D. Grimm*, V. 1., Frankfurt (M) 1973, v. 2, München 1976; “O filozofii prawa”, Mebnarodni Simpozjum 28-30. V. 1976, ed. *R. Lukic*, Beograd 1978; “Philosophie und Wissenschaften als Basis der Jurisprudenz”, Internationales Symposium, Retzhof bei Graz, 7-12. V. 1979.

² E.g., *J. Wolenski*, “Empiricism, theory and speculation in the general study of law”, “Archivum Juridicum Cracoviense” III, 1970; *E. Zacher*, “Zum Verhältnis von Rechtstheorie und Rechtsphilosophie”; in: “Rechtstheorie”, ed. *G. Jahr* and *W. Maihofer*, Frankfurt (M) 1971; *R. Dreier*, “Was ist und wozu Allgemeine Rechtstheorie?”, Tübingen 1975; *K. Opalek*, “Der Begriff der Rechtsphilosophie”, Österr. Z. f. Öffentl. Recht” 29, 1978.

change in the hitherto existing structure of the study of law, connected with the process of arising and shaping up of a new discipline – sociology of law, which has serious methodological consequences and gives rise to comparative considerations on the relation of this discipline to “traditional” branches of the study of law.³ The third matter is the increase of the methodological reflection on legal dogmatics, this reflection being developed in the course of the critical analysis of legal positivism and of confronting this discipline with the model of science, elaborated by the contemporary methodology of social sciences.⁴ Considerations of the mutual relationships of the disciplines, forming parts of the study of law, were dictated also by the strivings after its “internal” integration in view of the processes of its specialization and disintegration, which become apparent in the study of law as in other social sciences.⁵

On the other hand, however, also the problems of the relations of the study of law to other, non-legal disciplines – philosophy, sociology, political science, political economy, history, logic, linguistics, informatics, etc.— were dealt with, and so in connection with tendencies in the study of law towards “external” integration, including a) forming of theories of a wide, interdisciplinary range, introducing common research methods and techniques, and unifying terminology in social sciences, b) coordination of research work, c) collaboration of representatives of different sciences in research on complex problems.⁶ The discussions in the sixties through the seventies stressed the need to overcome the isolation of the study of law from other, mainly social sciences, brought about by legal positivism, and to devise ways of surmounting the existing difficulties in the integrational processes. In the discussions in question the

³ E. g. P. Trappe, “Zur Situation der Rechtssoziologie”, Tübingen 1968; M. Rehbinder, “Einführung in die Rechtssoziologie”, Frankfurt (M) 1971; Z. Ziembinski, “Sociologia prawa jako nauka prawna” (“Sociology of law as a legal discipline”), Warszawa 1975.

⁴ L. Nowak, “Próba metodologicznej charakterystyki prawoznawstwa” (“Attempt at a methodological characterization of the study of law”). Poznan 1968; A. Peczenik, “Wartość naukowa dogmatyki prawa” (“Scientific value of legal dogmatics”), Krakow 1966; J. Wróblewski, “O naukowosci prawoznawstwa” (“On the scientific character of the study of law”), “Państwo i Prawo” 8/9, 1965; E.v. Savigny-U. Neumann-J. Rahlf, “Juristische Dogmatik und Wissenschaftstheorie”, München 1976.

⁵ Comp. K. Opalek-J. Wróblewski, “Zagadnienia teorii prawa” (“Problem of legal theory”), Warszawa 1969, p. 367 ff.

⁶ K. Opalek, “Law and Integration of Social Sciences”, “Archivum Juridicum Cracoviense”, IV, 1971.

attainments integration were evaluated, their future possibilities appraised, and appropriate postulates formulated.⁷

2. The problem of the relation of legal to social philosophy has some common traits with questions already discussed. We deal here also with confrontation of two domains in an integrative perspective, although the relational scheme is different. Namely, the relation in question is not one in the "inner" scope of the study of law, as social philosophy is certainly not one of the legal disciplines. The relation of the study of law to something beyond its scope is also not involved here, as one has to assume anyway that the said social philosophy is of complex character, has the legal component among others, and eventually legal philosophy may be treated as its part. Social philosophy may be considered as an overall basis of integration of inquiries into different aspects of social life, all these aspects being treated in social philosophy together in their mutual relations. The tasks to be ascribed to this domain, then, are wider than those realizable by the "regional", bilateral integrational measures, connecting scientific efforts of particular disciplines, e.g., the study of law and sociology, sociology and political science, political science and political economy, etc. It can be also assumed that by means of such "regional" endeavours one cannot attain results to be provided by social philosophy with its overall point of view. Anyway, such conception seems to be the guiding principle of the composition of themes of the present Congress, dealing first with the relations of law to basic aspects of social life such as economics, politics, and culture, and taking up in this context the problem of the role of social philosophy. The starting point is here, quite understandably, the law. Social philosophy seems to conveniently promote inquiries into relations between different aspects of social life while adopting various points of reference, various foci of attention. Within this framework one can examine the relation of these aspects one time from the perspective of law, another time from that of politics, still another one from that of economics, etc.

It has to be examined, however, if and to what extent social philosophy of the past and in the present time meets such expectations, and what are its potentialities, that is to say, if it can really play the role as the basis of an overall integration of considerations on differ-

⁷ Comp. *L. Nowak-S. Wronkowska*, "Zagadnienie integracji nauk prawnych w. polskiej literaturze teoretycznoprawnej" ("Problem of integration of the study of law in Polish legaltheoretical literature"), "Studia Metodologiczne" 5, 1968.

ent aspects of social life. It seems to be significant that in the literature of the sixties through the seventies on the integration of social sciences, on the “internal” and “external” integration of the study of law among others, the question of social philosophy was never touched upon. It was so not without reason. The task of integration was undertaken with the aim of uniting efforts of branches of social science in order to make them “scientific”, that is to say, to transform them into empirical social sciences in accordance with standards of natural sciences. The study of law became oriented on social sciences more advanced in this evolution, especially on the contemporary sociology, while generally the tendency was visible towards raising the methodological level of the disciplines backward in this respect to the level of those leading in this development.

Social philosophy in such context was certainly considered as a) a requisite of the past, b) mainstay of metaphysical speculation c) domain of valuation, not meeting the requirements of the value –neutrality of science. Such views were admittedly not common, but the most influential. In social philosophy discouraging for everybody was the vagueness of its scope and far– reaching divergencies in its interpretations. All these matters cannot be left out of account in the considerations on the relation of legal to social philosophy, and one has to start with the last of them.

3. With problems of vagueness and ambiguity of the terms we dealt already in attempts at elucidating the relations of some disciplines included into the study of law. Such problems –and difficulties –were particularly apparent when comparing three main versions of the “general science of law”: legal philosophy, jurisprudence, legal theory. As it turned out, these three versions were relatively clearly delimited in the times when their competing programs were formulated, presently, however, their border lines can hardly be established. “Philosophy of law”, “jurisprudence”, and “theory of law” are nowadays terms of vague meaning and obliterated mutual differences.⁸

In attempts at characterizing the domain of legal philosophy one is dealing with the problem of its relation to general philosophy –this problem having near resemblance to that of the relation of legal to social philosophy. To reach a satisfactory solution to the former problem is by no means easy because of the vagueness of the term

⁸ Comp. K. Opalek, “Problemy metodologiczne nauki prawa” (“Methodological problems of the study of law”), Warszawa 1962, ch. VII; H.L.A. Hart, “Philosophy of law –the problems of–”, “The Encyclopedia of Philosophy”, ed. P. Edwards, v. VI, New York-London 1967.

“philosophy”. An eminent Polish philosopher, T. Kotarbinski, advises to get rid of this term, and another one, K. Ajdukiewicz, writes what follows: “The meaning of the word “philosophy” was never made precise and established to that extent that one could give a uniform definition of this word, one being agreed upon by the majority of living at the same time”.⁹ In the latter problem the difficulties are not smaller, as we meet with a strikingly analogous statement about social philosophy: “Es läßt sich für sie keine inhaltliche begriffliche Bestimmung finden, die darauf Anspruch erheben dürfte, überall als verbindlich zu gelten”.¹⁰

The more explicit meanings of the terms “philosophy”, “social philosophy”, and “legal philosophy” one is trying to give, the more arbitrary and open to different objections they are. On the other hand, the authors who want to avoid such objections are forced either to resort to vague formulas, or to characterizations employing negation, or else to enumerating problems or spheres of research of these domains. And so, e.g., we learn that philosophy is “a science giving a general outlook on the world”, and social philosophy is giving “die philosophische Deutung des Schicksals der Menschen, insofern sie nicht blo Individuen, sondern Glieder einer Gemeinschaft sind”.¹¹ Farther, that “to philosophy belong all considerations about language and extra linguistic reality other than those of formal and empirical sciences”, and “considerations of legal philosophy pertain to problems the jurists in their everyday work on the interpretation of positive law do not meet with or not assume”.¹² And lastly, that to philosophy belong heterogeneous problems of metaphysics, ethics and logic eventually also problems of some other kind logic, and to legal philosophy similarly incoherent legal philosophical problems.¹³

Statements of all these types —precise, broad and vague, negative, and enumerative— are rather scarce with regard to social philosophy,

⁹ T. Kotarbinski, “O potrzebie zaniechania wyrazow “filozofia”, “filozof”, “filozoficzny” itp. (“On the need of rejecting the terms “philosophy”, “philosopher”, “philosophical” and the like)”, “Wybór pism” (“selected writings”) v. 2, Warszawa 1958, p. 438, 443; K. Ajdukiewicz, “Zagadnienia i kierunki filozofii” (“Problem and trends in philosophy”), Warszawa 1949, p. 10 f.

¹⁰ M. Horkheimer, “Sozialphilosophische Studien”, Frankfurt (M) 1972, p. 33.

¹¹ W. Tatarkiewicz, “Historia filozofii” (“History of philosophy”), v. I, Warszawa 1958, p. 7; M. Horkheimer, o.c., p. 33.

¹² K. Opalek, “Present Status of Legal Philosophy”, in “O filozofiji prava”, o.c., p. 111; N. Bobbio, “Nature et fonction de la philosophie du droit”, “Archives de Philosophie du Droit” VII, 1962, p. 1.

¹³ T. Kotarbinski and K. Ajdukiewicz, l.c., H.L.A. Hart, o.c., p. 264; p. 264; A. Ross, “On Law and Justice”, London 1958, p. 24 ff.

which seems to be even more nebulous than philosophy, and philosophy of law. As to “social philosophy”, many a time only from the context in which this term is used, one can conclude what is meant by it. In the next section we shall try to characterize the main uses of this term, backed by explicit formulations of its meaning. One has also to observe here that we deal with a veritable inflation of terms competitive in relation to “social philosophy”, or else seeming to refer to some components of it: “social doctrine”, “social theory”, “social thought”, but also political, economic, ethical doctrine, theory or thought: “political philosophy”, “philosophy of State”, etc. Hence difference authors, guided by some methodological, theoretical conceptions, most frequently however by tradition and habits of given scientific circles, or simply by vague linguistic intuitions, make differing terminological choices from which by no means the most frequent one is that for “social philosophy”. This situation is to some extent similar to that of the use of terms “philosophy of law”, “jurisprudence”, and “theory of law”, pointing sometimes to substantial differences of standpoints, sometimes following tradition, but also quite frequently being simply haphazard.¹⁴ That the term “social philosophy” did not become stabilized in science and philosophy, and is far from being commonly accepted, is also testified by the fact of its being disregarded by encyclopaedias and lexicons, even specialized ones, and its appearing but rarely in text-books of history of philosophy, as recognized sections of philosophy are mentioned: philosophy of history, of human beings, of nature, of religion, of law, of state, but not social philosophy. Instead of speaking about the latter, one speaks many a time about “philosophical problems of social sciences”, or about the relation: philosophy and social sciences.¹⁵ We also seldom meet authors attempting to analyze the concept of “social philosophy”.

4. There are three main ways of understanding the term “social philosophy”. With the first of them we meet in historical contexts, namely in discussing views of thinkers of former times – as a rule to the I half of the XIXth century – on society, State, law, economics, etc. These discussions as a rule do not employ some definitions of “social philosophy”, but from the contexts one can infer about the following way of understanding the term. “Social philosophy” is here tantamount to: a) “prescientific” views on social reality, thus

¹⁴ K. Opalek, “Filozofia prawa –jurysprudenja analityczna– teoria prawa. Porownanie i wnioski” (“Philosophy of law –analytical jurisprudence– theory of law”. Comparison and conclusions”), “Państwo i Prawo” 1, 1961.

¹⁵ Comp., e.g., “Readings in the Philosophy of Science”, ed. H. Feigl and M. Brodbeck, part VII, New York 1953; W. Hirsch, “Philosophie und Sozialerisenschaften”, Stuttgart 1974.

some sort of “prehistory” of sociology, political economy, political science, etc., views based on metaphysical assumptions and marked by the evaluative standpoint; b) views of philosophers on these topics— as in the past these views were formulated mostly by philosophers; c) views, in which different aspects of social life are treated jointly, in contrast to their being subjected in later times to research within specialized disciplines.¹⁶ These views have many common traits with those of the founders of sociology in the second half of the XIXth and beginning of the XXth century, but a) metaphysics and axiological standpoints are in these views more concealed because of their programmatically minimalist philosophical positions, b) the authors in question are not professional philosophers, but “social thinkers”, c) the views in question are marked by a more specialized sociological point of view. All these differences are but qualitative and unessential. Nevertheless, because of them the views under discussion are qualified rather as “social –sociological– theories” than “social philosophies”. Social philosophy conceived as above is anyway considered as belonging to the past, and not as a discipline actually cultivated. The opinion about so-called social theories is less categorical.

According to the second conception, finding expression in some definitions and having different variants (not to be discussed here), social philosophy is a discipline of a general character in contrast to the social sciences as specialized ones. The view is represented that the subject-matter of social philosophy is “la vie humaine au point de vue collectif”. Social sciences deal with particular aspects of it, while social philosophy treats it in an overall way, making use of the attainments of these sciences. For the development of social philosophy of great importance are collective research works of the representatives of social sciences and philosophers.¹⁷ Social philosophy is an area of integration for history, sociology, study of State and law, political economy, and ethics, while the degree of importance of these respective components for social philosophy is differently evaluated.¹⁸ Sometimes, however, common problems of the disciplines in question to be dealt with by social philosophy become

¹⁶ Comp., e.g., “An Introduction to the History of Sociology”, ed. H.E. Barnes, Chicago 1948, part I.

¹⁷ W.M. Kozłowski, “L’idée d’une philosophie sociale comme synthèse des sciences historiques et sociales”, Extrait de la “Revue de Synthèse Historique”, 1908, p. 6; M. Horkheimer, o.c., p. 39, 41.

¹⁸ E.g., M. Horkheimer does not mention the study of law, and W.M. Kozłowski, while mentioning it, ascribes the greatest importance in social philosophy to history and sociology.

restricted to logical-methodological and axiological ones, and so mainly to metascientific problems, as also axiological considerations are treated here as those on the place and role of value statements in social sciences, and on possibilities of rational argumentation in the questions of values.¹⁹ In the conception of social philosophy characterized above the descriptive point of view can hardly be separated from the postulative one; more important here, however, are postulates either to create such discipline, or to intensify and unite efforts which, in the opinion of the writers, are hitherto insufficient in this domain. Anyway, in this conception of social philosophy its actual *raison d'être* is asserted.

Thirdly, the term "social philosophy" is also used sometimes in the way which but scarcely is consciously made precise, this way being close to that of the use of the term "social doctrine". In both instances the adjective "social" is taken in the specific meaning of what pertains to social policy or to solutions of the social question —*soziale Frage*— so-called. "Social philosophy" here amounts to philosophically grounded views on the origin and character of this "question," together with a program of solving it, e.g., the social philosophy or social doctrine of the Roman Catholic Church. Evidently, such conception of social philosophy has various elements mainly economic, sociological, and ethical ones but in the context of the specific problems of social —welfare— politics. Social philosophy has here, besides, a directly practical character.

Summing up: there are various conceptions of social philosophy; for some authors it is outdated, for others still actual, but rather projected than existing, and far from having an established scope; the authors proclaiming social philosophy are in the minority. The prospects in considering the relation of social to legal philosophy are, then, not very promising, especially what concerns the eventual profits to be derived from social philosophy for philosophy of law and study of law as a whole.

5. Leaving aside the third conception of social philosophy, characterized in the preceding section, this conception delimiting in a peculiar way the problems and tasks of the domain in question, we shall concentrate in discussing the relation of legal to social philosophy on two remaining conceptions. The first of them testifies to the fact that in the past different aspects of social life were treated as interconnected and were subjected to an overall philosophical reflection;

¹⁹ *M. Grinsberg, "Essays in Sociology and Social Philosophy", V. 2.: "Reason and Unreason in Society", London 1960, p. 123, 127 f.*

the second one considers such an approach as also actually valuable, both trying to demonstrate its being continued and postulating its expanding or initiating on a larger scale. Each of these conceptions, however, gives expression to another attitude towards philosophy and relation: philosophy-science. The first conception is contrasting the past times of “philosophical speculation” and times of progressing development of successively separated branches of “positive”, empirically provable scientific knowledge. According to this conception there is today no place for social philosophy. The second conception claims on the contrary that separated empirical social sciences are in need of a superstructure in form of an integrative general discipline, overcoming, their specialistic points of view, and that philosophical approach to problems of social life is by no means obsolete. Philosophical assumptions are inherent in empirical social sciences, social scientists being not aware of this act; making these assumptions explicit, providing a critical apparatus for scrutinizing them, eliminating their inconsistencies, is of great importance for the development of social sciences.²⁰ According to other suggestions, considering jointly various aspects of social life in social philosophy would make it also possible to get an insight into the essence of human life in society, and to formulate axiological-normative principles for shaping up social institutions.²¹

In our opinions the standpoints expressed in the second conception are correct in so far as an investigation of different aspects of social life the task consists not only in separating them —this being frequently overemphasized in specialized social sciences— but also in taking into account their interconnections —integration opposing processes of narrow specialization and desintegration— and, as philosophical problems of social sciences undoubtedly exist, these problems are to be successfully dealt with only when adopting an integrative approach.

Now it has to be observed that there are different kinds of social philosophical problems which are sometimes wrongly mixed, namely these from the domain of “philosophy of society”, of social phenomena and processes, mostly ontological and axiological ones,

²⁰ M. Grinsberg, o.c., p. 122 f.

²¹ M. Horkheimer, o.c., p. 38: “Allen diesen Entwürfen der gegenwärtigen Sozialphilosophie scheint es gemeinsam zu sein, dem menschlichen Einzelwesen den Blick in eine überpersonale Sphäre zu öffnen, die wesenhafter, sinnerfüllter, substantieller ist als sein Dasein”; W.M. Kozłowski, o.c., p. 12 f., ascribes to social philosophy the task of formulating “les principes sociosophiques”, combining the explanatory with the directive function, and writes: “La philosophie sociale, en concordance avec l'élément final qui y domine, dépend de la science des valeurs, et ses explications ont une teinte éthique”.

and those of philosophy of social sciences —considerations on assumptions, methods, and conceptual apparatus of these sciences. As to the first group of problems, the advisability of creating today a separate “philosophy of society” is questionable: firstly, such attempts are at present scarce and not very promising; secondly, in creating such a general discipline we are always running the danger of adopting in fact a one-sided view of one of the social sciences, or of a narrow group of them. And, consequently, of obtaining results inadequate and hardly useful for the omitted disciplines, though presented as philosophical theses of a general character.²² Thirdly, in such general “philosophy of society”, there is a marked tendency towards adopting maximalist philosophical standpoints, based on strong metaphysical assumptions, which results in considerations of a speculative character. It seems to be more advisable, then, to deal with social philosophical problems of this level in particular social disciplines, that is to say, in their general parts such as in our instance the philosophy of law. Consciously choosing a concrete starting point is always better and safer than trying to start with a “general perspective”, leading up to speculative considerations. Our further step will be to relate the chosen aspect of social life to others, enabling to get deeper insight into the common and distinct features of these aspects, their interconnections, the nature of phenomena of social life, and, eventually, into the ends to be pursued in consciously transforming social life. Admittedly, there will also be the risk of overemphasizing the importance of the aspect, forming the perspective of our investigation, and of omitting some of the others. Combined results of interdisciplinary investigations undertaken by different social sciences from their particular starting points will make it possible, however, to control such shortcomings.

On the other hand, there is a need for a separate philosophy of social sciences. The reflection on the assumptions, methods, and conceptual apparatus of these sciences is still too scarce in overcoming the defects of rough empiricism and factography in that area.²³ One has to mention also the question, if and, eventually, to

22 Comp., e.g., remarks of A. Ollero, “Rechtswissenschaft und Philosophie. Grundlegendiskussion in Deutschland”, Ebelsbach 1978, about the “critical theory of society” of the school of Frankfurt. This theory, being some kind of social philosophy, but scarcely pays attention to law, and does not offer much to the study of law (p. 33 ff.). On this theory see M. Horkheimer, “Traditionelle und kritische Theorie”, “Zeitschrift für Sozialforschung” VI, 1937; H. Marcuse, “Philosophie und kritische Theorie” in “Kultur und Gesellschaft”, v.I, Frankfurt (M) 1965.

23 Comp. S. Ossowski, “O osobliwosciach nauk społecznych” (“On the peculiarities of social sciences”), Warszawa 1962, ch. V.

what extent the axiological-normative considerations enter the field of social sciences. The opinions differ in this matter: according to some views valuation in social sciences is unavoidable, while according to others it can and has to be eliminated; there is also quite a number of intermediary standpoints, accepting valuation in social sciences with reservations and limitations.²⁴ The task of the philosophy of social sciences would be to clarify the existing confusions and to remove the divergencies of opinions at least in so far as they are rooted in misunderstandings.

There is, however, the question if philosophy of social sciences is, or can be, a separate discipline. This question is analgous to that concerning legal philosophy, the status of the latter as a separate discipline being by some recent authors denied. According to them there are only “legal philosophical problems”, mostly understood as problems of philosophy of legal sciences, incoherent ones and incidentally emerging in different points of juristic considerations.²⁵ In another study we have argued against this opinion, demonstrating the relative coherence of philosophical problems of the study of law, which however, admittedly, is disputable. Such doubts do not arise in the instance of philosophy of social sciences which certainly cannot be a separate discipline. The degree of diversity of its problems is much greater, and it is lacking the common subject-matter, which exists in the case of the philosophy of law. The problems of the philosophy of social sciences, even if common to the latter, manifest themselves in particular sciences many a time in various ways, and some of these problems are not common but characteristic of some groups of social sciences only. And so, e.g., the logical-semantic problems of social sciences, investigating norms, and value statements, do not appear in social sciences, investigating forms of collective life of people. That is why one can only speak about “philosophical problems of social sciences” —which approximately corresponds to the formula “philosophy and social sciences”— and not about philosophy of social sciences as a separate discipline.

6. Our opinion, then, is negative in the question of perspectives and *raison d'être* of an overall, separate “philosophy of society”, while we stress the need of undertaking problems of philosophy of social sciences, having admittedly, not the character of a systematized discipline, but that of separate studies on different problems, common to all or to some parts —groups— of social sciences.

²⁴ Comp., e.g., *K. Opalek-J. Wroblewski*, “Axiology: Dilemma between Legal Positivism and Natural Law”, “*Osterr. Ztschr. f. Off. Recht*” 18, 1958.

²⁵ Comp. above, section 5 and note 13.

Hence our problem of the relation of legal to social philosophy in the sense of the relation of two separate disciplines virtually disappears. Although, the formula of that relation cannot be “taken literally”, this formula expresses some idea and perspective of investigation in social sciences in the study of law together with legal philosophy in particular. What we have in mind is the idea and perspective of enriching and deepening the considerations on law as it is and ought to be by investigating its interconnections, peculiarities, and features common with other social phenomena. The idea is also expressed that philosophical problems of the study of law do not have to be treated in isolation but ought to be included into a wider philosophical reflection on social sciences. Not without importance in the formula in question is also its stressing that law belongs to social phenomena, and the study of law together with legal philosophy, to social disciplines, as this fact was not recognized by jurists applying in their work formal-dogmatic methods, and also by sociologists, economists and representatives of other social sciences, in view of such character of the traditional study of law.

By the formula of the relation of legal to social philosophy still another important thought seems to be covered. And so, while we are sceptical about “philosophy of society” as superior and external in relation to particular social disciplines, philosophy of law among others, we are at the same time of the opinion that legal philosophy ought to have, in a relevant sense, the character of social philosophy, that is to say, starting with law, to include it into the context of other social phenomena, to explain their interdependence and regularities of their development, possibly also to shed light on the ends social institutions ought to serve. One can also adopt the view that every “good” philosophy of law was and is some realization of this idea, quite apart from the question, if and to what extent its theses were confirmed or rejected. In our opinion, one of the important indicators of the value of any legal theory is just the extent to which it has the character of social philosophy.