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TEN CENTS

Katz, Brewster to Attend Warsaw Legal Conference

Milton Katz, Henry L. Stimson Professor of Law and Director of International Legal Studies, will be chairman of the United States delegation to a conference on "Socialist Legality," to be held in Warsaw, Poland, the week of September 10-16, 1958. Professor Kingman Brewster, Jr., will be a member of the delegation.

The conference is being sponsored by the International Association of Legal Science and the International Committee of Comparative Law. It is complementary to a colloquium on "The Rule of Law as Understood in



Milton Katz

the West," which was held in Chicago last September under the same sponsorship. Professor Katz served as chairman at this colloquium.

The purpose of the conference at Warsaw is to examine relevant aspects of legal doctrine and practice in Soviet Communist countries. "Socialist Legality" has been advanced by the East European Communist countries as their counterpart of the Western concepts of the "supremacy of law" and the "rule of law."

The host organization will be the Polish Academy. Participation in the conference (which will be attended by from 75 to 90 delegates) is by invitation only. More than half of the delegates will be from Poland, the Soviet Union and other Soviet Socialist countries, including Communist China. These delegates have been invited by the Polish Academy.

The other participants come largely from Europe, the United States, Latin America, Canada and Australia. A small number represent the Middle East and Asia. These delegates have received invitations from the Executive Committee of the International Association of Legal Science.

The United States delegation consists of, in addition to Professors Katz and Brewster, Robert R. Bowie, Director of the Center of International Affairs at Harvard University; Eugene V. Rostow, Dean of the Yale Law School; John N. Hazard and Harry W. Jones, Professors of Law at Columbia Law School; and Hessel E. Yntema and Paul G. Kauper, Professors of Law at Michigan Law School.

The Ford Foundation will provide the necessary funds to cover the expenses of the American delegation.

Certiorari Denied

The Supreme Court on Monday denied the plaintiff's petition for certiorari in the \$3 million suit brought by a Latin-American tax lawyer, J. Irizarry y Puente, against Dean Erwin N. Griswold and the Harvard Law School. Mr. Puente had charged that Dean Griswold stole his idea for a world tax series and assigned the Law School's World Tax Service to carry it out.

The United States Court of Appeals for the First Circuit on October 28, 1957, had unanimously affirmed a district court dismissal of the case.

Trust Co. Rewards Williston Winners

The winners of the Williston Competition for this year were announced last night at a dinner given at the Harvard Club in Boston. The Boston Safe Deposit and Trust Co., which provides \$500 of the prize money, sponsored the affair.

First place prize of \$250 was awarded to a team comprised of Eldon H. Reiley, 3L of Chehalis, Wash.; Charles S. Doskow, 3L of Croton-on-Hudson, N. Y.; and Joseph D. Hurwitz, 3L of Hartford, Conn.

The award of \$150 for second place went to Jack Oppenheim, 3L of Forest Hills, N. Y.; Barton Z. Cowan, 3L of University Heights, Ohio; and Stanley B. Bernstein, 3L of Brooklyn.

A third place finish was good for a \$100 cash prize. Members of this team were William B. Duffy, Jr., 3L of North Andover, Mass.; Robert Y. Fox, 3L of Dobbs Ferry, N. Y.; Mark L. Heller, 3L of Albany, N. Y.; and Paul D. Rheingold, 3L of Bethesda, Md.

Finishing fourth in the competition were Burton Berkley, 3L of Evanston, Ill.; Colin T. Naylor III, 3L of Peekskill, N. Y.; David N. Williams, 3L of E. Chatham, N. J.; and William L. Blaine, 3L of Dubuque, Iowa. They received a \$50 book credit as their prize.

The problem facing the contestants involved the drafting of a stock purchase-sale agreement. The completed drafts were judged by Howard Rubin, LL.B. '35, a member of the Boston firm of Guterman, Horwitz, and Rubin.

The Forthcoming Reform In U.S.S.R. Criminal Law

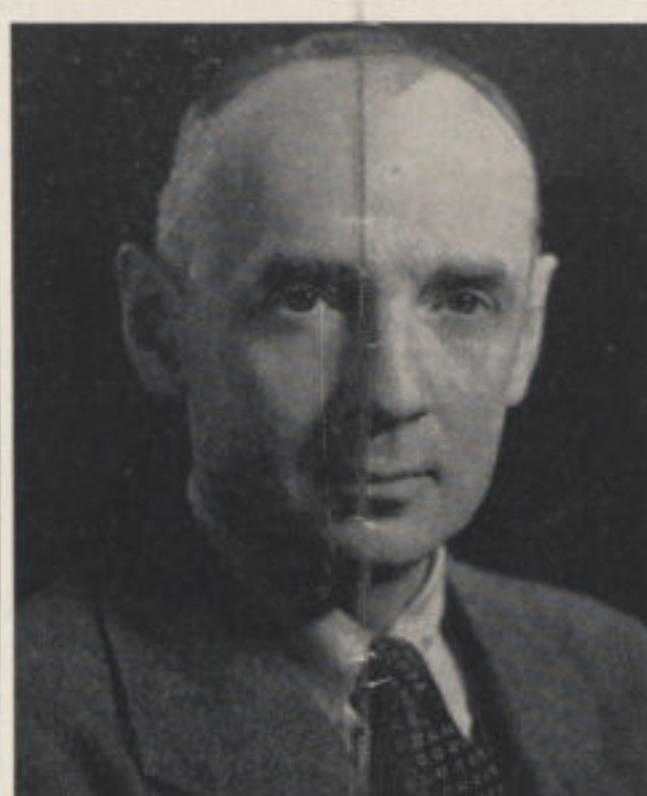
by
D. S. KAREV
Dean of the Faculty of Law
Moscow University

Criminal legislation now in effect in the USSR was enacted between 1924 and 1928, and though some laws have been revised in later years, on the whole it is to a considerable degree out of date. Some of the crimes defined by law are no longer committed, such as bride purchase, polygamy, stealing the bride, and other survivals of tribal customs in the Central Asian and Transcaucasian republics; and other acts formerly regarded as criminal offenses have ceased to be socially dangerous.

As a result of the consolidation of the Soviet social and state system, greater well-being, higher cultural standards and greater civic consciousness of the Soviet people, crime has declined considerably, and this has made it necessary to revise the criminal law. And so today special bodies are working out the principles of Soviet criminal law common for all Union Republics, and each republic is working out its own code of criminal law.

The basic principles of Soviet criminal law retain their significance for future criminal legislation, too. They are defined in Article 2 of the Judiciary Act of 1938 covering the USSR, the Union and Autonomous Republics. It reads as follows:

In imposing penalties for crimes the Soviet court not merely punishes offenders but it also has as its aim to reform the offenders. By all of its



Arthur E. Sutherland

Faculty Bard Sings Farewell

The noted Harvard Law School bard Arthur E. Sutherland, LL.B. '25, Bussey Professor of Law, will give the graduating class a musical send-off when he sings several ballads accompanying himself on the guitar at the Pre-Examination Beer Party on the Harkness Quadrangle in front of the World Tree, at 5 p.m., Wednesday, May 7. Class Marshal Herbert P. Gleason of Cohasset, Mass., reports that Judge Calvert Magruder, Lecturer on Law, will serve as master of ceremonies.

This is the first of a series of events leading to commencement on June 12.

Third year students and their families are invited to the Alumni Luncheon at noon on the Harkness Quadrangle, June 11. Hon. Charles E. Wyzanski, LL.B. '30 m.c.h., Judge of the U.S. District Court for the District of Massachusetts and former Chairman of the Board of Overseers of Harvard College, will speak for the Law School. The speaker for the Harvard Foundation for the Advancement of Study and Research

(See BARD on page four)

Pound to Keynote Law Day; First National Observance

An address by Dean Emeritus Roscoe Pound will feature today's observance of "Law Day, U.S.A." at the Law School.

President Eisenhower issued a proclamation on February 3 designating May 1 as "Law Day, U.S.A." and urging the people of the United States to observe it with appropriate ceremonies as a day of national dedication to our great heritage of liberty under law. This proclamation cited the principle of guaranteed rights of individuals under law as "the heart and sinew of our nation." The President declared that the universal applica-

Surrey, Casner, Cox Get Chairs

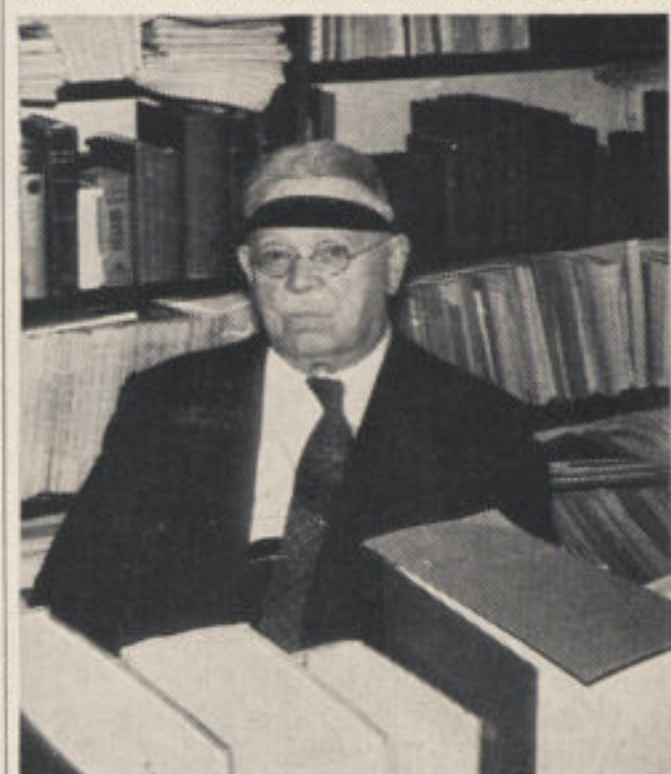
A new professorship, the Jeremiah Smith, Jr., Professorship, has been established at the Law School by the Harvard Corporation. Jeremiah Smith, Jr., LL.B. '95, was a prominent practicing attorney in Boston. He played an active part in international legal affairs shortly after World War I, when he went to Europe and undertook to assist Austria in the redevelopment of its economy and finances. He was a member of the Harvard Corporation for several years prior to his death in 1935.

The Professorship has been established out of the funds for professorships in International Legal Studies given by the Ford Foundation in 1955.

Professor Stanley S. Surrey, Director of the International Program in Taxation, will be the first holder of the Jeremiah Smith, Jr., Professorship.

Professor Archibald Cox has been named the new Royall Professor of Law. He succeeds Professor Paul A. Freund, who earlier this year accepted an appointment as Carl M. Loeb University Professor. The Royall Professorship, established in 1815, is the oldest professorship in the Law School.

Professor A. James Casner has been appointed Weld Professor of Law. The Weld Professorship was established in 1886. For the past several years it has been held by Professor Ralph J. Baker, who retires this summer.



Roscoe Pound

tion of the principle of the rule of law in the settlement of international disputes would "greatly enhance the cause of a just and enduring peace."

Dean Pound has prepared a scholarly address to answer the question "Why Law Day?" He will speak at 2 p.m. in the James Barr Ames Courtroom at a meeting sponsored by the Student Bar Association. Dean Pound's address has been prepared especially for law students, and will draw upon his broad knowledge of the origins and development of the rule of law in Anglo-American jurisprudence and of its importance to the world today. A cordial invitation to hear Dean Pound's address has been issued to all students and friends of the Law School.

The celebration of "Law Day, U.S.A." is a notable example of co-operation between lawyers and law schools. It has received an enthusiastic endorsement by the American Bar Association and by the Association of American Law Schools and its president, Dean Griswold. Programs in honor of the day are being held in law schools throughout the nation.

Bushby Remains Alumni President

Wilkie Bushby, LL.B. '21, of New York City, will serve another term as President of the Harvard Law School Association, James A. Fowler, Jr., LL.B. '19, of New York City, reporting for the Nominating Committee, stated at the annual meeting of the Council, Saturday.

Other officers chosen are Paul Carrington, LL.B. '17, of Dallas, First Vice President; Harry L. Dunn, '19-'21, of Los Angeles, Second Vice President; Henry R. Heyburn, LL.B. '49, of Louisville, Ky., Secretary; Paul F. Hellmuth, LL.B. '47, of Boston, Treasurer; and William L. Bruce, LL.B. '51, Assistant Dean, Assistant Secretary and Treasurer.

Members of the Committee of Five chosen to serve for the 1958-62 term are: A. Burn Litschgi, LL.B. '48, of Washington, D. C.; S. Pearce Browning, Jr., LL.B. '25, of New York City; Alfred Gardner, LL.B. '22, of New York City; James A. Fowler, Jr., LL.B. '19, of New York City; and Benjamin F. Goldstein, LL.B. '17, of Chicago.

Returning to the Executive Committee are John G. Buchanan, LL.B. '12 c.l., of Pittsburgh; E. Smythe Gambrell, LL.B. '22, of Atlanta, Ga.; and Bethuel M. Webster, LL.B. '25, of New York City.

Last December the RECORD addressed a letter to Nikita Khrushchev requesting information on the current penal reform movement in the Soviet Union in the form of an article for publication. Last week the RECORD received the following article by Professor D. S. Karev, Dean of the Faculty of Law of Moscow University.

It is a very rare occasion, indeed, for an article written by a high Russian dignitary to appear in an American publication. The RECORD requested Professor Harold J. Berman, who spoke with Dean Karev when he was in Moscow a year ago, to write a short comment. This comment appears on page three.

activity the court educates USSR citizens in the spirit of devotion to their country and to socialism. It encourages strict and undeviating observance of Soviet laws, care of socialist property, labor discipline, honest performance of public and state duties and respect for the rules of socialist intercourse.

The Soviet court has set itself the task not merely of punishing citizens who have committed a crime but also of reforming them. This is the humane essence of Soviet criminal law. The law protects the Soviet citizen — his life, health, liberty, dignity, his right to work and his personal property.

While merciless in imposing penalties on persons who have committed heinous crimes against the Soviet state and law and order, such as murder, espionage, and so on, Soviet criminal law at the same time gives

a great deal of attention to influencing by correctional education criminals who have committed crimes of lesser social danger.

Legality in combatting crime is ensured by strictly defining in the criminal code the basis of criminal liability — the corpus delicti.

Crime by Analogy

The criminal codes of the Union Republics contain clearcut definitions of the corpus delicti of particular crimes, guaranteeing against arbitrary interpretation by the court of particular acts by citizens. Heretofore it has been permitted, though in extremely rare cases, to hold a person criminally liable by analogy, that is, to hold him liable for a socially dangerous act not expressly defined by criminal law, under an article of the criminal code which comes nearest in content to the act for which the particular person is held criminally liable.

Soviet jurists unanimously favor abandonment of the analogy principle, which was introduced in the early stage of development of Soviet criminal law, and establishment of the principle that "there is no crime unless defined by law."

There are several types of sanctions in Soviet criminal codes, with what are called "relatively-determinate sanctions" predominating. In other words, the law sets a minimum and maximum penalty for each crime, leaving it to the court to fix the actual penalty within those limits. An ex-

(See U.S.S.R. LAW on page three)

Harvard Law Record

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Record Chooses Board Members

David F. Binder, 2L of Beaver Falls, Pa., has been elected to a second term as President of the HARVARD LAW RECORD. Mr. Binder, who is a 1956 graduate of Geneva College, has served as President of volume 26 and will continue in that capacity for volume 27.

The Board of Directors elected Robert E. Manley, 1L of Cincinnati, to the post of Editorial Manager. Mr. Manley graduated from Xavier University of Cincinnati in 1956 and served as Taft Teaching Fellow of Economics at the University of Cincinnati for a year.

William F. Cottrell, 2L of Chicago, will serve as Business Manager. Mr. Cottrell graduated from Northwestern University in 1956.

News Editor for volume 27 will be Robert G. Finley, 1L of Ramsey, N. J. Mr. Finley is a 1957 graduate of Fairleigh Dickinson.

The Senior Editor position will be filled by Michael Mulroney, 2L of Elkader, Iowa, a 1954 graduate of the State University of Iowa.

Alan K. Illig, 1L of Rochester, N. Y., will serve a second term as Advertising Manager. Mr. Illig is a graduate of Rutgers University.

Examinations

Each year as final examination time nears at the Law School, an unhealthy and unholy tension mounts among the student body. Fear grips the heart and panic the soul of all too many, as a stifling air, saturated with anxiety, pervades the cavernous confines of Langdell Hall.

In order to help students, in these trying times, to gain a more proper perspective, the RECORD quotes, approvingly, a few words from an article entitled "Marks and the Man," written by Louis A. Toepfer, secretary of the Law School and Director of Admissions.¹

... As an index of measurement, examination marks are a pretty crude tool. They are earned not by intelligence or worth alone, but by ability, effort, circumstances, and luck in varying proportions. They fail utterly to reflect many qualities whose influence on professional success is profound. Do examinations measure qualities of character or personality? Are they good tests of industry, energy, judgment or personality? Do clients ever ask about a lawyer's marks? Do judges? For that matter, once a student leaves the Law School and gets his first job, does anyone care about his marks?

¹The article appears in the April issue of the Harvard Law School Bulletin.

Finis

With this issue of the RECORD, publication for the 1957-58 academic year comes to a close. The RECORD will resume with the first issue of volume 27 in September.

Book Review

RUSSIAN THOUGHT AND POLITICS.
 Edited by H. McLean, G. Fisher, and M. Malia. Cambridge. Published as Volume IV of the Harvard Slavic Studies, Harvard University Press, 1957. 513 pp. \$7.50.

by
 Dr. MIRIAM H. BERLIN¹

In *Russian Thought and Politics*, the fourth volume in the Harvard Slavic Studies, some of Prof. Michael Karpovich's students, now widely dispersed in American universities, have presented him on his retirement with a Festschrift volume of essays, tangible evidence of the influence he has had in thirty years of teaching at Harvard. These essays range widely in period and subject, reflecting both the complexity of Russian history and the breadth of Prof. Karpovich's knowledge and imagination, and indicate the developing interest in all aspects of Russian history and culture since the First World War. Most of the contributors took their degrees during and after World War II. That is not to say, of course, that there had been no concern with Russian cultural or social life before, but in the United States interest in literature, economic development, language and history has, understandably enough, intensified in the last several decades.

Essays Are Specialized

If in the public mind the Russians remain a kind of stereotyped enigma, this is no fault of the careful, scholarly, analytic techniques with which Prof. Karpovich trained his students. A glance at this Festschrift volume is proof enough. Perhaps the individual essays, minimal as they are in length, are too specialized for the general reader, but many of them are based on, or are part of, larger works which the interested non-specialist could read with profit.

There are schools of interpretation in historiography which, lacking answers and general conclusions from the material, supply facile and superficial explanations of the course of Russian history. Perhaps the single most striking observation about the material in this book is how much it gives the lie to such easy answers. Marc Raeff's essay, "The Russian Autocracy and its Officials," for instance, provides a detailed analysis of the disparity between the development of the institutions of the state and that of a bureaucracy to run them. This is no uncommon problem in history, but his analysis points to some answers as to the special Russian conditions that helped to perpetuate arbitrariness and discontinuity of action.

Russian Evolution

The emergence, or better still, bursting forth of what could be called the "modern Russian state" under Peter the Great in the beginning of the 18th century started a tension that has not yet abated between archaic forms of social organization and accompanying attitudes, and the dynamic, evolving patterns of an industrializing society. Against this background Russian life must be examined in the same way as the institutional and ideological developments of any society. Certainly such special conditions as the persistence of the autocracy, the attempts, if not to mold, at least to confine, Russian cultural life within certain channels, the slow pace of reform from above in the face of burgeoning revolutionary agitation give a unique character to Russian life. This is especially true of the intellectual history of Russia in the 19th century, as several of these essays clearly point out. Martin Malia's analysis of "Schiller and the Early Russian Left" is a brilliant case in point: the climate of Russian thought in the early decades of the 19th century coupled with the aspirations of the Russian intelligentsia contributed to a very special reading of Western European philosophy and social thought.

The Russian interpretation of western social ideas continued to be unique throughout the 19th century as the intelligentsia widened its social base and shifted its interests from philosophy and aesthetics to political and social thought. But even at the time when the Russian intelligentsia was speaking out most sharply in criticism of its society, the literary genre was often the instrument of attack, and even those who were not primarily social critics discussed the moral and social problems of their world in works of great art. So that one of the richest sources for an understanding of Russian life in the 19th century are the works of the giants Tolstoi, Turgenev, Dostoevski, Gogol, Chekov and a host of

¹Dr. Berlin is presently at the Harvard Russian Research Center, where she is writing a book.

Professor David Westfall Reviews Course in Real Estate Transactions

Another curriculum change for 1958-59 involves the introduction of Real Estate Transactions as a third year course. The subject was formerly treated in seminars given by Professor Charles M. Haar and Assistant Professor David Westfall. Since Professor Haar will be away during the coming year, it has been deemed advisable to present the material as a three hour elective course in the Fall semester. Professor Westfall discusses the materials and goals of the course in the final article of the current series by the faculty on third year electives. It is planned to resume discussion of the curriculum next Fall with faculty articles on seminars and required courses.

by
 DAVID WESTFALL

The course in Real Estate Transactions, like the seminar which it replaces, will seek to prepare students for practice in the field of commercial land transactions. The basic approach will be that used in the seminar, modified by the shift in student emphasis from writing a seminar paper to preparing for an examination. So a description of the course necessarily is a description of the seminar.

The seminar arose out of a recognition that problems in the real estate field could be examined more intensively in the third year, after students have had the additional background of the second year courses, than is possible in the first year course, Property I. The basic understanding of commercial land transactions which students achieve in Property I is used as a foundation for further study. A substantial emphasis is placed upon tax considerations, as many practicing lawyers report that planning the federal tax consequences of a real estate transaction is likely to present more serious problems than do either the property law or business negotiating aspects.

Materials Used

The materials used in the seminar (and which will be used in the course) were prepared by Professor Haar and me. In doing so, we had the benefit of those used by Professor Allen, now of the University of Chicago, which he made available to us. The property law aspects of leases, contracts for the sale of land, and mortgages are integrated at each point with the relevant federal tax materials. Cases are included both for the substantive rules which they illustrate and as clinical specimens of transactions which, by definition, were handled unsatisfactorily for at least one of the parties. Textual notes have been used to present the business background of the transactions dealt with. Problems serve in some instances merely as a

others less well known in the West. Some of the essays in this volume deal with works of literature from just this point of view, as comments on social and moral questions.

The Revolution

For those interested in the 20th century, several of these essays discuss the actual period and developments of the revolution itself. Mesmerized by the success of the Bolsheviks, influenced by the very Marxist laws of historical inevitability which the Russians quote in their favor, we tend to forget that in every historical moment there are choices to be made, alternative paths, mistakes. Reading, then, about the healthy development of Russian liberalism before the revolution, or about the actions of Kerensky in the phase of acute upheaval during the revolution itself helps to redress this imbalance.

Although all the contributions to this Festschrift volume are not equally interesting, in total the book is a fitting token to Prof. Karpovich. A man of extraordinary breadth in his interests and knowledge, Michael Karpovich introduced the complexities of European history to many generations of Harvard undergraduates, and with a very few others, trained a generation of American scholars in Russian history and literature. His lectures, as his writings, were always very polished, revealing a grace of expression that is rare even among those born in the English language. With the retirement of Prof. Karpovich and his colleague and friend, Prof. Vernadsky of Yale University, a whole historical epoch is disappearing. It is not only that these are the last pupils of the great



David Westfall

basis for discussion and in others as drafting exercises for members of the seminar.

The drafting exercises have played a major part in the work of the seminar and seek to integrate negotiating strategy and precision of expression with an awareness of the property law and tax considerations which are relevant to the transaction. In order to make the problems as realistic as possible, several are based upon situations which Professor Haar and I encountered in practice, and others have been taken from the experience of practicing attorneys in the real estate field. The first requires each student to outline the modifications which he would seek for the protection of the lessor in a short form lease submitted by a lessee. More difficult problems include those dealing with the financing of construction of a manufacturing plant and the purchase of a hotel chain. For these longer assignments, members of the seminar work in groups of three, and each group submits a single solution. Some of the solutions are reproduced and form the basis for discussion in the seminar.

Usually the discussion is quite vigorous and brings into a clear focus the advantages and disadvantages of a variety of alternative approaches to the problem. To practicing lawyers, however, the discussion of the first few problems doubtless would seem somewhat unrealistic. The students tend to allow their zeal to protect a client's interest from all possible risks to lead to demands for such major concessions by the other party to the transaction that in actual practice he would be likely to call off negotiations altogether. But in due course the students achieve a greater awareness of the realities of negotiation and an increased ability to distinguish between substantial and insubstantial risks.

Russian historian, Kliuchevsky, nor even that they are the last men who will have spanned the period before and after the Bolshevik revolution. Nor is it only a kind of highly refined scepticism and care without pedantry in historical scholarship that they represent. For these are the last men of broad culture, humane outlook, rich and liberal training, in a sense the last representatives of the 19th century Russian intelligentsia, that most attractive of human types.

The book reflects this breadth of vision but it remains to be seen whether the young generation of American scholars can perpetuate this liberal spirit and cultivated humanism.

Scholarships

Fulbright Scholarships have been awarded to Mr. and Mrs. Hubert T. Weinshienk, both 3L of Denver, Colo., who will study in Denmark next year. Other winners of Fulbrights are James M. Brachman, 3L of Milwaukee, Wis., who will spend his year in Belgium; David K. Page, 3L of Detroit, who will study in England; Michael L. Weissman, 3L of Highland Park, Ill., Australia bound; and Daniel G. Partan, 3L of the Bronx, who will travel to Germany.

Two third-year law students have received Frederick Sheldon Travelling Fellowships for the next school year. They are Michael H. Greenberg and Arnold N. Enker, both of Brooklyn. Each will have \$2,700 to be used to finance a year's travel abroad.

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U.S.S.R. LAW

(Continued from page one)

ample of this type is where the law has fixed as the penalty imprisonment for not less than three and no more than five years.

It should be mentioned that in certain cases the law specifies a maximum penalty only, leaving it to the court to fix the term of imprisonment or of correctional labor.

There are certain kinds of crimes for which the law specifies only a minimum penalty, as imprisonment for a term of not less than two years. In such cases, however, the court may not make the sentence more than 10 years.

Soviet criminal law thus makes it possible for the court to take into consideration the personality of the criminal and also the degree of social danger presented by the particular crime.

Indicating the absence of formalism in Soviet law is the fact that the Soviet court, under Article 51 of the Criminal Code of the RSFSR, has the authority in some cases to make the penalty less than the minimum provided by law, if after taking into account the offender's personality it finds that this should be done; in such cases, however, the court has to state the reason for doing so in its decision.

In the overwhelming majority of cases the criminal codes of the Union Republics provide less severe penalties for individual crimes than those fixed by law in the West.

Amnesty Act

A number of important principles for future criminal legislation are contained in acts passed by the Soviet State. For instance, the Amnesty Act of March 27, 1953, predetermined revision of criminal legislation in the direction of removing criminal liability for certain cases of malfeasance, breach of trust in office of economic organizations and other less socially dangerous offenses, and imposing administrative or disciplinary measures for them.

It has been found necessary to mitigate penalties for certain offenses.

Abolition of criminal liability for a number of the less dangerous actions followed shortly after publication of the Amnesty Act. In 1954 criminal liability was removed from pregnant women resorting to abortion.

In 1956 an act was passed repealing earlier legislation which made it a criminal offense for factory or office workers to leave their place of employment without sufficient ground therefore (the law prohibiting leaving employment without permission of the management was passed as a war measure in 1940 while World War II was on).

A number of other laws have been passed repealing criminal liability for less dangerous acts. There was also

Comment

by

HAROLD J. BERMAN

Without some background of knowledge of the Soviet legal system, and of the current movement for the reform of that system, it is difficult to understand the implications of Dean Karev's article. He has not attempted to give a complete account of the proposed reforms in criminal law, but has apparently selected only some proposals which have the unanimous support of Soviet jurists.

Two omissions in particular in Dean Karev's article are striking. First, he does not mention a new law on labor colonies which purportedly abolishes the labor camps and introduces a far more favorable regime for prisoners. Such a law has been referred to in Soviet publications, but the text of the law has not been published.

Second, he omits to refer to the fact that a few of the smaller Soviet republics have recently enacted a law which would subject so-called "antisocial, parasitic elements" to exile at the hands of a meeting of neighbors, with review by the local executive authorities. The same law has been proposed also for the larger republics and has been discussed in the press. Some jurists have publicly disapproved of it, and have said that it violates the Soviet Constitution.

It is an important and welcome fact that Dean Karev and other leading Soviet law professors and justice officials have come down squarely on the side of due process of law and elementary legal guarantees, including, as is stated in the article, "having all criminal cases heard by the regular judicial authorities." It is devoutly to be hoped that their ardent campaign for improvement of the Soviet legal system will soon overcome the political obstacles which seem to have prevented its full realization in the past two years.

(Two recent articles which may serve as a background for Dean Karev's article are Berman, "Soviet Law Reform — Dateline Moscow 1957," 66 YALE LAW JOURNAL 1191 (1957), and A.K.R. Kiralfy, "The Campaign for Legality in the U.S.S.R.," 6 INTERNATIONAL AND COMPARATIVE LAW QUARTERLY 625 (1957). — The Editor.)

abolished the Special Board under the Minister for Internal Affairs, which heard criminal cases, thereby leaving all criminal cases to be heard by the regular judicial authorities.

Soviet lawyers believe that the USSR Supreme Soviet will pass, in addition to the Basic Principles of Criminal Legislation, statutes on crimes against the state and military crimes. Liability for particular kinds of crimes will be defined by the criminal codes of the Union Republics, in which it is expected that the principles covering crimes against the state and military crimes adopted as all-Union laws will be included as separate chapters.

We shall now dwell on the main recommendations which have ap-

peared in Soviet legal periodicals in connection with the drafting of the proposed laws.

One of the main principles is that no one may be held criminally liable and have a criminal penalty imposed for acts which contain no corpus delicti as envisaged by criminal law, and penalties may be imposed only by a court of law. These recommendations, which are unanimously approved by Soviet lawyers, have as their aim to insure that no bodies except courts of law shall be entitled to impose criminal penalties and that only a court of law shall have the right to find an individual guilty of having committed a crime. This is actually the system in effect at the present time, and it is desired that it shall be secured by law.

Penalties

Criminal penalties outlined are as follows: public reprimand, fine, correctional labor without imprisonment, banishment from domicile, imprisonment, and certain others.

It is proposed that disfranchisement and confiscation of property shall not be applied as criminal penalties.

Capital punishment may be imposed only by way of exception for very grave offenses against the state or military crimes or for deliberate murder under aggravating circumstances.

After World War II, on May 26, 1947, capital punishment was abolished in the USSR. However, by a decree issued on January 12, 1950, it was re-instituted in cases of treason against the country, espionage and sabotage, and on April 30, 1954, in cases of murder of the first degree under aggravating circumstances.

A recommendation has been made to retain the present practice of imposing the death penalty only for the very few more heinous crimes. Under the recommendations published in the press capital punishment is not to be applied to persons who were under 18 years of age when they committed the crime or to pregnant women. This is also provided under existing legislation.

A penalty recommended for certain strictly defined crimes is that the convicted criminal shall be prohibited from living in certain specified localities for not more than five years after serving his term of imprisonment. This measure is designed to eliminate the offender's ties with the criminal environment.

Correctional Labor

One of the principal penalties recommended is correctional labor without imprisonment. This may be imposed by the court for a term of up to one year, with the person serving the sentence at his regular place of employment, or somewhere else at the direction of the authorities in charge of correctional labor, but in either case in the district in which the convict lives. If the convict has a job, the court will, in sentencing him to correctional labor, include in the sentence a provision that 20 or 25 per cent of the convict's wages are to be withheld and paid over to the government. Those who have no employment when the sentence goes into effect usually are sent to work on civic improvement jobs in the place where they live.

According to articles published in the press, banishment should consist of the removal of the convict from his regular place of residence with (See U.S.S.R. LAW on page four)

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In a people's court — The picture shows a woman judge, for women rank equally with men in the Soviet Union, with her associate judges. A defendant pleads before them.

U.S.S.R. LAW

(Continued from page three)

compulsory residence in specified places for not more than five years.

Banishment may be imposed only for certain crimes in cases specified in the criminal code, either as the penalty itself or in addition to imprisonment.

In the opinion of Soviet lawyers sentences of imprisonment should be imposed only on persons on whom other penalties will not be effective, and the consensus of opinion is that no sentence of imprisonment should exceed 10 years, except for sentences of 15 years for particularly dangerous crimes.

Some Soviet jurists favor sentences of up to 20 years in cases involving exceptionally dangerous crimes. Laws now in force permit a sentence of up to 25 years in such cases. But public opinion in the Soviet Union has arrived at the conclusion that too long a term of imprisonment creates in the convicted person a feeling of hopelessness, making it difficult to reform him. Neither is short-term imprisonment for less than a year considered advisable.

As regards the more persistent offenders, backsliders, separate confinement, separation from other convicts, is recommended, as is the case now.

Able-bodied persons serving their sentence of imprisonment are put to work at socially useful labor and are paid for their work. It should be mentioned that work given to convicts is covered by the established safety and labor protection regulations and is

Hartford Banks Practicing Law

In a decision of far-reaching import to banking institutions and the legal profession the Connecticut Supreme Court of Errors has ruled that two Hartford banks have unlawfully practiced law in the handling of certain estates, trusts and fiduciary matters.

Two cases, known as the *Hartford Bank* cases, involved suits brought by the State Bar Association of Connecticut against the Connecticut Bank and Trust Company and the Hartford National Bank and Trust Company asking for injunctions to halt the continued use of bank staff attorneys, instead of independent counsel, in the administration of estates and trusts.

In a unanimous decision rendered April 18 the court held that:

(1) The banks cannot represent clients at Probate Court hearings through employees, whether or not the employees are members of the bar.

(2) The banks must not do any work in connection with the preparation of tax returns which would be "commonly understood to be the practice of law."

(3) In effect the General Assembly cannot perpetuate through legislation any current bank practices which constitute the illegal practice of law.

Justice Edward J. Daly, who wrote the opinion of the court, used these words:

The practice of law is not a lawful business except for members of the bar who have complied with all of the conditions required by the rules. As these conditions cannot be performed by a corporation, it follows that the practice of law is not a business in which a corporation may legally engage. As it cannot practice law directly, it cannot do so indirectly by employing competent lawyers to practice for it, since that would be an evasion which the law will not tolerate.

not such as would humiliate the convicted person.

Liability of minors for the violation of law should be dwelt on specially. Under present legislation criminal liability attaches from the age of 14, and for some crimes, such as murder, violence, infliction of bodily harm, and larceny, from the age of 12.

Recommendations have been made that the criminal codes of the Union Republics should establish that criminal liability of minors attach from the age of 16, and in cases of murder with malice aforethought, bodily harm affecting the health of the injured, rape, robbery, larceny or rowdiness accompanied by violence, from the age of 14. Moreover, it is recommended that the death penalty, banishment, and prohibition of living in certain localities should not be applied to minors. It is proposed that the present practice of having minors sentenced to a term of imprisonment serve their sentence in special labor colonies for minors, and under no circumstances in places of imprisonment for adults, should be retained in the future.

Should the court find that a crime committed by a person under 18 years of age does not constitute a great danger and that the defendant could be reformed without imposing the criminal penalty specified, it may substitute a measure of a correctional nature.

Suspended Sentences

Soviet jurists deem it necessary to retain the institution of suspended sentences. They recommend that if, as is the case under existing legislation, after taking into consideration the facts in the case and the personality of the defendant the court finds that it is not advisable to have him serve a sentence of imprisonment or of correctional labor as specified by the criminal code for the crime committed, it may suspend sentence; in such case the court must explain its reason for its decision in the sentence.

A suspended sentence means that the person who has committed a crime does not serve the sentence if in the probationary period fixed by the court he commits no other more grave or similar crime. On the expiration of the fixed probationary period the convicted person is deemed to have a clean record.

If, however, the person whose sentence has been suspended commits another crime during the probationary period, he has to serve the sentences passed in both the new and the old cases.

Soviet lawyers hold that if a certain time has passed following the commission of a crime and the offender has not committed another crime he should not be called to answer for the crime. It is planned to cut the time fixed in the statutes of limitations of the USSR and the Union Republics in force at the present time. Thus it is believed that if for some reason a person who has committed a crime for which the law permits a sentence not including imprisonment has not been charged with the crime within a year's time there is no need to bring him into court and have the court convict and punish him.

It is recommended that the same rule be introduced with respect to serving a sentence. For instance, it has been proposed that where for some reason a sentence not providing for imprisonment has not been enforced within a year it should not be enforced at all.

It is also recommended to retain the institution of a conditional pardon or commutation of sentence in cases where the convicted person has

Defenders

The Voluntary Defenders have elected Thomas W. Wiley, 2L of Cambridge, Mass., president of the organization for the 1958-59 school year. Paul A. Renne, 2L of Troy, N.Y., was elected secretary and Robert B. Bourne, 2L of Far Hills, N.J., was elected treasurer.

shown by good behavior and honest attitude toward work that he has reformed. It is suggested that a conditional pardon be granted after the convicted person has served not less than half the term fixed by the sentence of the court, and in the case of minors not less than one-third of the term.

The Executive Committees of the local Soviets are charged with the duty of helping persons released from jail to find employment.

To give an idea of the mitigation of penalties and abolition of criminal liability for certain acts and the substitution for them of measures of administrative and social influence we list here acts that it is proposed no longer to regard as crimes: concealment of property inherited, refusal to serve in the armed forces on religious grounds, simple smuggling, the charging by the house owners of rent at higher than fixed rates, infraction of trading rules, concealment of collections and articles of antiquity, and several others.

Soviet jurists believe that the principal way of educating people to observe the laws strictly is by persuasion, by ideological education. But at the same time it is necessary to use coercion in some cases, and severe penalties for the more dangerous criminals.

In line with the decisions taken by the Twentieth Congress of the Communist Party of the Soviet Union, which has resolved that socialist law must be further strengthened, coercive measures by the state have to be combined with measures of public influence, measures of an educational nature.

This is the angle from which the revision of Soviet criminal law is proceeding.

— END

BARD

(Continued from page one)

will be Sir Leslie Knox Munro, Ambassador from New Zealand and President of the Twelfth Annual General Assembly Session of the United Nations. Mr. Wilkie Bushby, LL.B. '21, of Dewey, Ballantine, Bushby, Palmer, and Wood, New York, will introduce the speakers. He is President of the Harvard Law School Association. Tickets for the Alumni Luncheon are free and may be obtained from the Receptionist in Langdell Hall after May 19.

Commencement exercises will be held on Thursday morning, June 12, in the Tercentenary Theatre (that part of the Harvard Yard between Widener Library and Memorial Church). Candidates for degrees will march in an academic procession forming in the Yard. Class Marshal Gleason will provide instructions as to the exact time and place of assembly.

Families of degree candidates will need tickets for both the Commencement exercises and the afternoon alumni gathering. Graduating students have been requested to turn in their applications for these tickets to the Receptionist in Langdell not later than 5 p.m., Wednesday, May 7.

At 12:30 p.m. graduates and their families will join Dean Erwin N. Griswold and other members of the Law School faculty for an informal luncheon on the lawn of Langdell Hall. The Dean will hand out diplomas after the luncheon.

The final event will be the annual

Class of '58

At the initial meeting of the 1958 Class Committee held last week, David F. Cavers, Jr., of Lexington, Mass., William L. Higgs of Greenville, Miss., and John M. Youngquist of Seattle were elected to the Committee to complete its geographical distribution.

The Committee also made preliminary plans for the annual pre-examination beer party.

meeting of the University Alumni Association, to be held in the afternoon in Tercentenary Theatre. Recipients of honorary degrees from Harvard University will deliver addresses. The identity of these recipients is always a closely guarded secret, never disclosed until the actual Commencement exercises.

— Manley

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