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TEN CENTS

Braucher Will Visit Japan As Fulbright Research Scholar

Professor Robert Braucher will spend the first six months of 1959 at Chuo University in Japan as a Fulbright Research Scholar, under the sponsorship of the Japanese American Program for Cooperation in Legal Studies. The program is administered by the Institute of International Education in cooperation with the United States Education Commission (Fulbright Commission) in Japan.

Under this program, faculty members of three American law schools, Harvard, Michigan, and Stanford visit Japan for periods of research and teaching, in cooperation with the law faculties of Chuo, Keio, Kyoto, Tohoku, Tokyo, and Waseda universities, and with the Judicial Research and Training Institute in Japan. Professor von Mehren spent 1956-1957 at Tokyo University under the auspices of the program.

While at Chuo, Professor Braucher will focus his attention on commercial subjects. A planning committee in Japan, with whom he is now in correspondence, is arranging for a staff seminar to be conducted by him. The main areas in which interest has been expressed are retail installment sales, commercial paper, investment securities, and the quality of goods, with particular reference to the law of warranty. Interest has also been expressed in legislation and the legislative process. Professor Braucher has indicated that any work that he does in the latter field during his stay in Japan will be with the aid of the



Robert Braucher

Surrey-Newman casebook. He may also draw upon his experience as a Commissioner on Uniform State Laws in dealing with bar associations and representatives of industries affected by proposed legislation.

Professor Braucher has stated that his main work will be done in the staff seminars, which will involve intensive study of chiefly commercial topics with about 20 Japanese judges, lawyers, teachers, and government officials, who have indicated to him the particular topics they feel would prove most interesting and valuable to the participants. He will base his discussions, to a substantial extent, on *Commercial Transactions, Cases and Problems and Commercial Transactions, Texts, Forms and Statutes*, books he has co-authored with Professor Arthur E. Sutherland, and the Uniform Commercial Code, for which he served, for the latest edition, as one of the coordinators for revision.

In the course of the staff seminar program, Professor Braucher will compare notes with the participants in order to evaluate the similarities and differences in American law and the Japanese civil and commercial

(See BRAUCHER on page 6)

Forum to Explain Small Bus. Tax

A forum on tax planning under the Technical Amendments Act of 1958 and the Small Business Tax Revision Act of 1958 will be held by the Federal Tax Institute of New England this Saturday, December 6, at John Hancock Hall in Boston. Dean Erwin N. Griswold, president of the Institute, will preside over the forum.

The two Acts constitute a major revision of federal tax law, encompassing the already famous "pseudo-corporation," tax advantages and incentives for the small business enterprise and its investor, liberalization of the accumulated earnings tax, and the election to pay the estate tax in installments. The forum will deal selectively with those major provisions of both Acts which are of general interest and significance, with emphasis upon their practical application.

Two panels of experts will analyze and present the subject matter by short talks and discussions. At the morning session (9:15 to 12:15) the first panel will deal with planning for the individual taxpayer. The second panel, which will begin in the morning and continue into the afternoon session (2 to 5), will be devoted to tax planning for business enterprises. Stanley S. Surrey, Jeremiah Smith, Jr., Professor of Law will be a member of this panel.

Raphael Sherfy, Associate Head of the Legal Advisory Staff of the U. S. Treasury Department, who was intimately connected with the drafting and legislative processing of both Acts, will be a member of both panels.

The concluding portion of the afternoon session will be turned into an open forum and questions will be discussed as time permits.

Calvert Magruder, Chief Judge of the United States Court of Appeals for the First Circuit, is vice president of the Institute and a member of its Advisory Committee. Dean Griswold, A. James Casner, Weld Professor of Law, and John M. Maguire, Royall Professor of Law Emeritus who left retirement and returned to the Law School to teach a course in Evidence this fall, are members of the Executive Committee.

Winner

The Holmes Club, led by oralists Joseph H. Head, Jr., of Cincinnati, and J. Wallace Hopkins of Cambridge, defeated the Griswold Law Club, led by Thomas C. Clarke of Yonkers, N. Y., and Frank H. Finch of Urbana, Ill., in the second semi-final argument of this year's Ames Competition last Monday evening, December 1.

The Holmes Club represented the taxpayer in a tax case involving a French support decree and a 20-year trust, *Commissioner of Internal Revenue v. Anderpont*.

Wisconsin's Hurst Takes Ames Prize

The Faculty of the Harvard Law School has voted two awards of the James Barr Ames Prize. The Ames Prize, established in 1898, is awarded at intervals of four years "for a meritorious essay or book on some legal subject." Each award consists of a sum of \$1500 and a bronze medal.

The awards made this year are to Professor James Willard Hurst, LL.B. '35 c.l., of the University of Wisconsin Law School, for his *Law and Conditions of Freedom in the 19th Century*, published in 1956, and to Professor George Osborne Sayles, Burnett-Fletcher Professor of History in the University of Aberdeen, for his Introduction to Volumes 1-4 of the Selden Society's *Select Cases in the Court of King's Bench under Edward I and Edward II*, Volume 4 of which was published in 1957.

The presentation of the award to Professor Hurst will be made by President Nathan M. Pusey of Harvard University at a meeting of the Law Faculty to be held on January 13, 1959. The presentation of the award to Professor Sayles will be made by Professor Samuel E. Thorne, who is spending the current academic year in England. This will be at a suitable ceremony, held either at the University of Aberdeen, or at a meeting of the Selden Society.

South African Diplomat To Discuss Racial Policy



W. C. duPlessis

W. C. duPlessis, ambassador to the United States from the Union of South Africa, will speak on "South African Racial Policy" in a program sponsored by the Law School Forum tomorrow evening. Following his address, a panel consisting of Dean Erwin N. Griswold and Professors Oscar Handlin and Jeffrey Butler will discuss his remarks. A period of questions from the audience will conclude the program.

Ambassador duPlessis was born in Pretoria, South Africa, in 1906, and received a B.A. from the University of Pretoria in 1927. His lengthy career of government service began in 1924. In 1930 he was Administrative Secretary of the South African delegation to the Imperial Conference in London. Following World War II, he entered politics and served in Parliament from 1948 to 1954, when he was appointed High Commissioner to Canada. He became ambassador to the United States in 1956. Mr. duPlessis is also presently the permanent South African representative to the United Nations. He is a member of the South African Bureau of Racial Affairs.

Dean Griswold visited South Africa last summer as an observer of the celebrated treason trial there which arose from opposition to the strong apartheid (segregation) policies of the South African government. The trial has since been suspended and is currently awaiting further action by the government.

Dr. Handlin, Professor of History at Harvard College, holds the 1952 Pulitzer Prize for History. He is the author of many works on contemporary America, including *The Uprooted*, *American People in the Twentieth Century*, and *Race and Nationality in American Life*. His recent book, *Al Smith and His America*, was serialized in the *Boston Globe* last year.

Professor Butler is a member of the faculty of Boston University as a visiting lecturer in government from Oxford University in England.

The forum will be held at 8:30 p.m. in the New Lecture Hall, corner of Oxford and Kirkland Streets. Tickets will be sold at the door.

—Skornia

'Warren Court Greatest' — Edward Bennett Williams

"The Warren court is the greatest Supreme Court of our generation. . . . Never before has this nation needed in its legislative and executive branches the enlightened leadership it has received from the judiciary. . . . I doubt if the Bill of Rights would have gotten out of the Senate Judiciary Committee." These opinions were expressed by Edward Bennett Williams, nationally famous Washington, D. C., criminal lawyer whose clients have included Frank Costello, Jimmy Hoffa, Joseph McCarthy, and Aldo Leardi, in an address before the Ford Hall Forum in Boston last Sunday evening, November 30.

"Traditionally the Court has been the bastion of the status quo," Mr. Williams declared. But for the last five years, under Chief Justice Warren, the Court has been "dynamic, visionary, humanitarian, broad-gauged in its approach to the issues presented to it."

Mr. Williams expressed deep regret that the ruling outlawing segregated schools in *Brown v. Board of Education*, which he termed "a great humanitarian decision," was being "met with defiance by one-sixth of this nation." He expressed even deeper disappointment because the "Chief Executive of this Land took a position of moral neutralism" on the school integration problem. "There is no room for neutralism on the greatest domestic moral issue of our times," he asserted.

Mr. Williams heralded the *Watkins* decision of the Supreme Court



Edward Bennett Williams

as long needed and long overdue. "Legislative committees need to be curbed," he declared, and the only way they can be effectively curbed is by the courts. "The Kefauver committee ran wild," Mr. Williams asserted, as later did the red-hunting committees and the McClellan committee.

Congress, Mr. Williams asserted, has "no right to expose for the sake of exposure alone." A Congressional committee has a right to conduct an inquiry or investigation only if it has an "honest-to-goodness, bona fide intention to legislate," and to use the

(See WILLIAMS on page 6)

Segal Explores Labor Practice

Opportunities for lawyers in the practice of labor law are continuously increasing, reported Robert M. Segal, LL.B. '42, prominent Boston labor attorney, in a luncheon address before the Student Bar Association on Monday, November 24. Three well defined divisions exist in the labor field, he said: employer's attorneys, labor union lawyers, and government and arbitration practitioners. Frequently, too, he added, lawyers in general practice face problems of labor relations in counseling the small corporate client.

The problems of those specializing in labor law on the union side are somewhat unique, he cautioned, and include resentment of the lawyer and the intellectual by union leaders, and sometimes guilt by association with the cause of his client in the minds of others. But the union counsel plays

(See LABOR on page 4)

Court Voids Segregation Law

A 1956 Louisiana statute prohibiting racially integrated athletic contests, entertainments, and dances was ruled unconstitutional by a three-judge federal court last Friday, November 28. The court declared that the statute violated the "equal protection" clause of the 14th Amendment, citing *Brown v. Maryland*.

Judge John Minor Wisdom of the United States Court of Appeals for the Fifth Circuit and Federal District Judges Herbert W. Christenberry and J. Skelly Wright concurred in issuing a temporary injunction enjoining the Louisiana State Athletic Commission from enforcing the statute.

Suit had been brought against the State Athletic Commission, which regulates boxing and wrestling in Louisiana, by Joseph Dorsey, Jr., a Negro boxer from New Orleans. Following is the section of the statute which the court declared unconstitutional:

All persons, firms and corporations are prohibited from sponsoring, arranging, participating in, or permitting on premises under their control, any dancing social functions, entertainments, athletic training, games, sports, or contests and other such activities involving personal and social contacts in which the participants or contestants are members of the white and Negro races.

Jack Gremillion, Louisiana State Attorney General, has stated that he intends to appeal the decision.

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THE CASE METHOD

It has been a rather long time since method of teaching at the Law School, rather than curriculum content, has been the subject of serious open discussion. Perhaps now is as good a time as any to take a long, thoughtful, latter-half-of-the-20th-century look at method of instruction at the Law School, and, in particular, at what appears to be its cornerstone, the hallowed case method.

The case method of legal instruction was introduced at the Law School and into American legal education by the late Professor Christopher Columbus Langdell back in the year 1870. Today nearly all American law schools have adopted it, at least in general outline. It has become "traditional."

Teaching methods, it is true, are very much individualized at the Harvard Law School, and the case system does not hold the same degree of enchantment for all members of the faculty. They do not all place the same amount of reliance upon it. But almost all utilize it to some extent, most to a great extent, and, it is the impression here, all too many to too great an extent.

Overworked

The case method can be a very useful means of instruction, and few legal topics can be altogether divorced from cases and decisions. Yet the feeling prevails, indeed grows stronger, that the case method is a bit overworked, that it is extensively utilized in many courses more because it is "traditional" than because it has been found to be the most practical and effective method of teaching.

Hessel E. Yntema, Professor of Law at the University of Michigan, has been disturbed by the prevalence and tenacity of the case method of legal instruction and has stated, in an article entitled, "A Modern Perspective for Legal Education," appearing in 7 *J. Leg. Ed.* 561 (at pp. 563-64):

Traditional adherence to the case method of instruction forms a . . . source of difficulty. Undeniably, this technique has the salient practical merits of relating concrete cases to principles and, in the hands of a good teacher, of inspiring student participation in the learning process. But in terms of time required to cover a given subject matter, this is a most expensive technique, and if too selective, as it must be when the mass of materials to be mastered is large, it becomes a sort of anecdotal casuistry. The case method was ideally suited to the halcyon, horse and buggy days of Langdell, when there was ample time and classes small enough to conduct individualized research in the original reports. This is no longer feasible. . . . With the growth of legal materials, the casebooks themselves have had to be condensed, so as to provide selections of more or less appropriately assorted excerpts, chiefly of current judicial disquisitions, usually annotated or supplemented by statutory and other matter, regarding the application of legal doctrine or positive law to situations within the particular topic. Such vehicles of instruction can scarcely reproduce the thrill of scientific inquiry that attended the case method when it was young; nor can a collection of cases which the students are supposed to decipher for themselves be a satisfactory format for a comprehensive text. Hence, casebook instruction too frequently is a simulacrum of what a Socratic method might be, nor yet an integrated logical expose of the subject matter. This is not to argue that there should be no real research at the undergraduate level — quite the contrary — but simply that the time is overdue to reconsider the assumption that the study of law should be so largely conducted in an unduly expensive, incomplete, and, for the general aspects of law, inadequate manner.

Almost all Harvard Law students begin their careers by using the case method, neglecting textbooks and legal periodicals, and eschewing any form of canned outline, as they are advised to do. But many soon alter their study habits and, as time passes by and experi-

ence is gained, display more and more preference for textual material.

The case system appears to hold its greatest value as an introductory method of acquainting the new student with the judicial process; and it is put to its heaviest use by first year law students. Professor Louis Loss, a heretic from Yale who teaches a course in Securities Regulation by using a textbook (*Securities Regulation*, written, incidentally, by Professor Loss himself) rather than a casebook, states in the introduction to that work (page vi):

. . . it should no longer require demonstration that the case method of instruction rapidly approaches the point of diminishing returns as applied to advanced law students. . . .

This appears to be an accurate observation, but even first year students at the Law School become sophisticated rather quickly.

Disadvantages

The case method of legal instruction, it may be acknowledged without undue irreverence, has several disadvantages. Edwin W. Patterson, Cardozo Professor of Jurisprudence at Columbia University, in a thoughtful article entitled, "The Case Method in American Legal Education: Its Origins and Objectives" (4 *J. Leg. Ed.* 1, at page 10), points out that "A series of reported cases is . . . an inadequate method of presenting the historical development of law." The historical development of law is quite often taught by the case method at the Harvard Law School.

The case method is a terribly time consuming method of studying. As a practical matter, a busy student simply cannot afford to do the major part of his studying by reading cases. There are more efficient ways, perhaps not so thorough or so thought provoking, but students must make their own choice of how to best allocate their time. And it is a fact that a good many second and third year students, in particular the members of the honor societies, do not choose to spend nearly as much time reading cases as their instructors expect them to. The Law Review, for example, possesses a comprehensive set of prepared outlines for almost all second and third year courses as they are taught by the individual professors, which its members rely upon to prepare for examinations.

Most students find hornbooks an invaluable aid in their studying, and the more popular of these are discomfortingly scarce in the Library around examination time. The law reviews which contain the more popular articles can be readily identified, for they are frayed and worn, red penciled and marginally annotated. Many of these volumes, when stood on end on a table, will, due to heavy usage and force of habit, automatically open to the place where a particular article appears.

Textual material possesses a distinct advantage over case material in that it tends to place things in more proper perspective, to give one a broader and more comprehensive picture of the law. There is danger, when one studies primarily by reading cases, of losing sight of the woods because of undue concern for the trees.

And it is a regrettable fact that judges, by and large, are not exceedingly polished writers, and the law as it is explained and illustrated in the average court opinion is not as well presented as it might be. In all fairness to the judiciary, it should be added that opinions must be written in a relatively brief period, and it takes time for even the most gifted of writers to organize and fashion abstract legal principles into their most effective expository form. Thus:

. . . editorial notes or excerpts from a good treatise or law review article will usually provide a better systematic exposition of law than most judges give in their opinions. (Patterson, *ibid.*, at page 16).

And the case method, almost all will admit, is quite inadequate for the study of statutes and legislation in general, which have become of increasing importance.

Socratic Inquiry

A seemingly necessary corollary to the case method of study is the Socratic method of questioning and student participation in class discussion. The Socratic method is ideally suitable to a small group of active and interested hearers and questioners. As class numbers become larger and larger, its effectiveness tends to diminish. It is all too often the case in classes at the Law School that the Socratic method tends to revert to its original function, as the professor and a certain small group of students carry on a discussion between themselves day after day, neglecting the great majority of the class.

The combination of an overemphasis on the case method in fields where it is not too readily adaptable and the Socratic method of questioning in classes much too large for its optimum effectiveness, have created unnecessary and undesirable tensions. Professors have become angered at lack of student preparation; have been known to pass over important material, commenting acidly that if the stu-

Gallery



Roger Fisher

"When I came to teaching, I thought that dealing with 140 students would not be more difficult than facing nine Supreme Court Justices, but now I'm not so sure." This is one of Lecturer on Law Roger Fisher's early impressions upon returning this fall to Harvard Law School to teach. His career has included such varied occupations as assistant to the General Counsel for the Economic Cooperation Administration in Paris, associate of an outstanding Washington law firm, and Assistant to the Solicitor General of the United States. Since his graduation from Harvard Law School in September of 1948, Mr. Fisher's talents have been exercised in matters ranging from the adjustment of riparian rights between the Pakistan and Indian governments to activity in the civic affairs of Fairfax County, Virginia.

In 1942, just out of Harvard College, Mr. Fisher was caught up in the War, and considering that he was interested in studying law, the Air Corps assigned him to meteorological work. The study of weather had long been his hobby, but it became more than just a hobby for three busy years of chasing down storm centers, first in the North Atlantic, and then in the Pacific theatres.

The law school was on an accelerated program in 1946, when Mr. Fisher entered, running three terms to occupy the full year, and he broke his course of study only during the summer of 1947 to work in his father's law firm. In September of 1948 he finished his study and went abroad to assist General Counsel Milton Katz in the Paris headquarters of ECA, where the Marshall Plan was then being put into full operation. To place its stamp still more strongly upon the recovery program, Harvard sent Kingman Brewster, Jr., to Paris to fill a similar position.

International Field

In 1950, having completed his assistance in the most successful post-war recovery program on record, Mr. Fisher returned to the United States and an association with the venerable Washington law firm of Covington and Burling. There he was concerned with international matters, participating when that firm advised the Pakistan government in its dispute with India over the waters of the Indus River. Other work dealt with advice to the Danish government concerning Danish ships seized by the allies during the war, and a dispute between Iran and Afghanistan, again over water rights.

With this fund of experience he accepted the position of Assistant to the Solicitor Gen-

dents are not interested enough to prepare on this material, they will refuse to teach it and pass on to the next topic. Some professors have, on occasion, become highly insulted and threatened to walk out of the room at lack of student response.

Cause

This sort of trouble appears to be due, essentially, to an undesirable and unreasonable overemphasis upon the case method by the instructor. Some professors apparently feel that the law cannot be taught except by the case method and Socratic dialogue, or seem to believe that their function is merely to preside as chairmen over a giant panel discussion and to ask occasional questions for the purpose of "stimulating student thinking." This type of professor may resent it if a student who has not had time adequately to prepare attends his class anyway, in the hopes of learning something of importance from the professor himself. For inherent in the case system is the assumption that the student should work out his own answers to problems and should not rely upon an instructor's ready solutions.

But students, it might be argued, who have paid \$1000 per year in tuition have a right to expect a little more from the average class instructor than occasional encouragement to self-teach themselves. It might also be argued that a student has a right to feel welcome to attend a class with the sole hope of receiving knowledge and information from an instructor whose salary he is helping to pay, and to feel free to decline to serve as an eager participant in a gigantic panel discussion or open forum.

By and large, the most popular professors are those who spend more time lecturing and disseminating information than asking questions.

While the case method should not be unduly criticized per se, yet it is submitted that the Law School today may be witnessing, to a degree, its overemphasis or overextension. If it be true that the case method is sometimes utilized more for "traditional" than for practical, educationally realistic reasons, may not the time be ripe for a reconsideration, course by course, instructor by instructor, of whether the case method might not well be used with a bit more moderation. Perhaps this is an area where individual faculty members, who are firmly wedded to the case system, could yet exercise, in its application, a little more academic self-restraint.

—Binder

eral in the Department of Justice. The dozen and some cases which he argued before the Supreme Court included a successful defense of the constitutionality of the federal statute prohibiting the mailing of obscene material, in which he apparently reminded Mr. Justice Douglas of Anthony Comstock, and a somewhat less successful challenge to Michigan's right to lay a tax against federally owned property in the use of private persons. He contributed heavily to the headline case of Corporal William F. Girard and the rehearing of *Covert v. Reid*, in which the government was denied the right to court-martial civilian wives overseas. Getting closer to home, he assisted in upholding the conviction of Harvard graduate, Howard Lawn, in a criminal tax case.

At this time Mr. Fisher was active in civic affairs in Fairfax County, Virginia. He is presently occupied in writing a brief for the Supreme Court of Appeals of Virginia on the constitutionality of the large lot zoning adopted by that county.

Back at Harvard he finds himself in familiar surroundings, particularly with regard to his fellow faculty members. Five of his colleagues occupied positions on the Law Review with him: Messrs. Brewster, Chayes, Haar, McNaughton, and Sacks.

Contrasts

While the surroundings here are familiar enough, Mr. Fisher finds marked contrasts to his other work. "There is a more difficult problem to teaching than arguing. When arguing, you are trying to make things clear, in teaching you try to make things confusing, or perhaps I should say, you try to make people think." His students remark that he is successful in demanding thought but tactfully offer no comment on any alleged confusion. The most difficult problem, he says, is finding the center of gravity in the class.

Asked to compare the present atmosphere in the School with that of the GI days of 1946 and 1948, he offers, "I hope the students have as much fun now as we did then."

—Skornia

Letter to the Editor

To the Editor of the RECORD:

I read over with great interest the news item in the RECORD, stating that the Internal Revenue Service planned to send out its 1958 tax return forms with an up-side-down address label.

According to the RECORD, this "up-side-down" label would enable the Post Office letter sorters and mail carriers to read the more important over-all destinations first, and the more detailed addresses later, thus cutting down on the length of time to sort and classify the mail.

Having returned a couple of years ago from a three-weeks trip to the Soviet Union, I remembered that all addresses in the USSR are invariably written in an "up-side-down" fashion, i.e., the state or province would come first, the city second, the street address third, and the individual person last. When I inquired about this standard practice, which apparently has been in effect for a long time, I was met with such subversive statements as: "It's the logical way to do it." "It makes post office operations easier," and "It seems simpler that way, doesn't it!"

Under these circumstances, I have no doubt that the nefarious scheme of the Internal Revenue Service to use such "up-side-down" labels is merely another indication of Communistic infiltration in our government. What, in all probability, has happened is that some Communistic agitator has foisted this scheme off on the Post Office with an idea of spreading widespread confusion by the use of this simplified method.

As a believer in private enterprise, the only real solution is to return the Post Office to private operation. After all, for many years out here in the West, Wells Fargo always carried the mail much more efficiently than the Pony Express.

HENRY F. LIPPITT, 2nd
 LL.B. '42
 Los Angeles

WILLIAMS

(Continued from page one)

products of its investigation as an aid to legislation.

The *Watkins* case affirmed this principle, Mr. Williams stated, but that decision has been "met for over a year with open and cynical defiance" by Congressional committees "who have refused to recognize it."

These committees, he continued, have a habit of meeting in a closed session. If the testimony given by witnesses at this closed session is of a nature "to excite headlines," he charged, the witnesses are recalled in open session, where they are again asked the same questions that they have already answered, or refused to answer, for the sole purpose of publicly humiliating them.

The committees, he continued, also have a habit of calling witnesses in open session after they have been advised that the witnesses will not answer, but will instead seek refuge in the 5th Amendment. The apex of a modern Congressional investigation, he declared, seems to be "to call a witness who will testify nothing about a subject concerning which the Committee already has full information."

Mr. Williams decried what he termed the "legislative lynch" the process of calling witnesses before an open hearing for the illegitimate purpose of publicly humiliating and castigating them. "It is just as wrong to lynch a guilty man as it is to lynch an innocent man," he declared. Even a "good end does not justify an evil means."

Mr. Williams singled out the *Benanti* decision for praise. But he deplored the fact that while wiretapping in the United States is a crime under a federal statute, the F.B.I. habitually taps wires. Indeed, he charged, it is "standard investigative procedure" in certain types of cases. This "has sullied the reputation of an otherwise fine organization."

To the argument that it is necessary to tap wires to compete with the modern criminal, Mr. Williams replied, "necessity has been the excuse for infringement of human rights and liberties since time immemorial." It is the "argument of tyrants," he continued. The significant difference between a democracy and a totalitarian state is that in a democracy the police

"are under the law;" in a totalitarian state "the police are the law."

Mr. Williams emphasized that as long as it is a crime under a federal statute to tap wires, he would oppose the tapping of wires by the F.B.I. "Lawless law enforcement breeds anarchy. Crime is contagious."

Softening a little, he indicated that he might favor a modification of the law to permit the F.B.I. to tap wires in certain specific types of cases after the procurement of a court order upon good cause shown. But the F.B.I. has never gone before Congress and asked for a change in the law. This may be, he explained, because it would be embarrassed, for its hands are not clean. But it is more likely, he said, that the F.B.I. is more satisfied with things the way they are and doesn't want to be bothered with going to court and showing good cause when it wishes to tap wires.

Mr. Williams expressed confidence that the Supreme Court would overturn a 20-year-old decision and rule, in a case of his now before the Court, that the use of detectaphones and other types of modern mechanical eavesdropping equipment is unconstitutional. It is irrational to believe, he stated, that the framers of the Constitution intended that a man's written papers and documents should be secure against illegal search and seizure, but that his most private conversations in his private home should be entitled to no such protection.

Vigorously defending the *Jencks* decision, Mr. Williams stated that he learned years ago, representing insurance companies, that when defending a corporate bankroll in a civil case, a lawyer has the opportunity to take the plaintiff's deposition, question him about his case, force him to produce germane papers and documents, etc., so that when the lawyer enters court he is "like a quarterback

with a full set of the opponent's plays." But when you go into a courtroom to defend a man whose life or freedom rather than his bankroll is in jeopardy, he pointed out, none of the above weapons are available to you. You go in "flying blind."

Mr. Williams expressed wholehearted agreement with the *Nelson* decision, asserting that it would be a grievous error to have "48 standards of sedition" in this country. "There should be one standard of Americanism," he stressed, "not 48."

The noted attorney lamented that every time there is a movement in the direction of the extension of human freedom, especially a movement in the courts, there is an immediate reaction. Legislation was introduced into Congress for the purpose of overturning the *Benanti*, *Jencks*, *Nelson*, *Mallory*, and other decisions, almost immediately after they were announced, he observed with dismay. The Senate Judiciary Committee has a habit of "rushing forward" with this type of reactionary legislation.

Mr. Williams produced and quoted from a document which he said was disseminated in June and July of this year by the Senate Judiciary Committee and which, in effect, labeled the Supreme Court a "tool of the Communist party." This was the "most scandalous report ever put out by an arm of the United States government," he declared, and it was paid for with the taxpayer's money. The embarrassment of some of the members of the Committee soon forced its recall, he continued, and it is no longer available.

The most shocking thing about the whole business, Mr. Williams declared, was the fact that the document met with "apathy and indifference" from not only the public but from the Bar. For the latter there was no excuse, he asserted.

— Binder

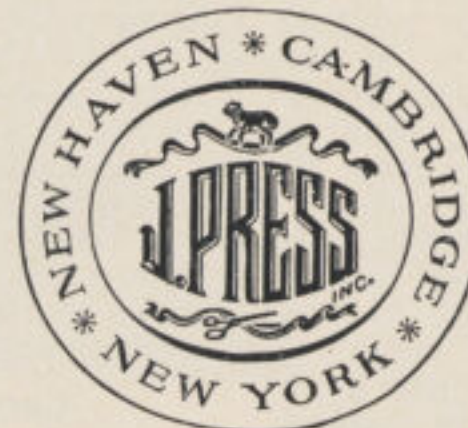
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Legislative Research Bureau Kept Active Drafting Statutes

Should it be a criminal offense to jump bail in Massachusetts? Is it advisable for Alaska to have compulsory motor accident insurance? Do the aged in New York need special tax relief? Should Illinois press for a national standard for the production of milk? Can the Buy-American Act be reconciled with the remainder of our foreign policy?

The Federal government and every state and local government across the country are continually confronted with problems such as these; when they answer such questions in the affirmative, the need often arises for the adoption of new legislation or the amendment of existing statutes. Every year approximately twenty such requests for assistance, with the resulting research and drafting problems, are accepted by the Harvard Student Legislative Research Bureau, located at 23 Everett Street, Cambridge.

While aiding in the formulation of legislation, the Bureau at the same time educates its members in the complex art of legislative research and drafting. The benefit of this pedagogical function is enjoyed by approximately forty students, twenty of whom are chosen annually from the top half of the second year class.

In order to meet its self-imposed standards the Bureau, before accepting any project, determines whether the ultimate legislation sought is deemed important, the facilities available for doing the necessary research are adequate, and the proposal has an educational value for its members. Once accepted, the project undergoes an exhaustive process of pre-audit, drafting, editing, and faculty and student review. The ultimate product is then forwarded to the "client," ready for legislative consideration.

The Legislative Research Bureau draws its clients from the federal, state, and community levels. Nationally, at the request of a United States Senator, the Bureau is now working on a recodification of the Reciprocal Trade Acts. In order to determine the current status of this law, numerous enactments, hearings, committee reports and other matters of legislative

history covering several decades must be examined. The Bureau's task is to compile the laws on this subject now on the books into one coherently organized statute. Another Senator has requested an analysis of the Buy-American Act and its relationship to and effect upon the Development Loan Fund and the International Cooperation Administration.

Among other projects completed within the past year at the federal level have been: (1) proposed amendments to the Federal Employment Loyalty Security program, giving an accused employee the right to confront his accuser, (2) legislation protecting secret F.B.I. files (to modify the effects of the Supreme Court's *Jencks* decision), and (3) an analysis of a bill attempting to control mail inciting racial or religious hatred.

By far the largest segment of the Bureau's activity involves the study and drafting of enactments which will take effect at the state level. This legislation is requested by inter-state commissions, individual state legislators, or public service organizations. In the past year, for example, the Bureau's committees have conducted a survey of state legislation concerning debt-pooling for a member of the National Conference of Commissioners on Uniform State Laws, and have drafted a uniform workers' compensation act which has been submitted to this Conference.

Current Projects

Among the Bureau's current projects are a study of a proposal by Illinois state officials for national regulation of the production, transportation, and marketing of milk, and the preparation of a special real estate tax exemption for aged New Yorkers. The Bureau is also engaged in the task of revising California service of process statutes wherever they do not conform to the notice requirements of the *Mullane* and *Walker* decisions. Yet another project is the revision of Maine's juvenile delinquency statutes.

Perhaps because of its sudden need for drafting assistance, much of the Bureau's work has been done for



Members of Student Legislative Research Bureau (and secretary) at work in their office.

Alaska, which is relatively unhampered by prior enactments. Thus, in addition to the "financial responsibility" auto insurance act now being drafted, the Bureau has completed a codification of school laws which may be submitted to the Alaskan legislature in the coming session.

Massachusetts, quite naturally, has provided the Bureau with more projects than has any other state. A committee recently completed the drafting of a statute for the Massachusetts Judicial Council which would make bail-jumping a criminal offense. The purpose of the statute is to facilitate the setting of lower bail, which in turn would eliminate the undue hardship placed upon lower income defendants by the present high bail requirements. In addition, the Bureau is presently drafting a statute to remove clinical psychologists from regulation by the Massachusetts civil service and, at the request of the Massachusetts Association for Retarded Children, is preparing a statute which will provide for the guardianship of mentally deficient orphans.

State projects completed last year included (1) a bill defining sexually dangerous persons and providing for the treatment of such individuals, (2) statutes providing for tort liability of charitable institutions that use radioactive materials, thus eliminating the traditional immunity of these groups if they engage in such activity, and (3) a study of the constitutionality of

a state toll on a United States highway.

Not all of the work, however, concerns national or state affairs. Some of the projects submitted to the Bureau involve the multifarious problems confronting local communities. As an illustration, a committee is currently studying the zoning problem of Salem, New Hampshire, a rapidly-growing and predominantly residential town. Among its needs are the proper regulation of new housing construction and the restriction of house trailers to certain specified areas.

Furthermore, and quite apart from its work on the yearly projects, the Research Bureau annually collaborates with the counsel of the Massachusetts House of Representatives in putting into statutory form various proposals submitted by legislators during the rush weeks before the bill-filing deadline.

What the Bureau's "batting average" for its drafts enacted into law will be this year remains, of course, uncertain. Now in existence for five years, it has evolved an efficient procedure for handling projects and has acquired a backlog of experience in legislative drafting. This being so, the members look forward with confidence to a highly productive year and to the ultimate satisfaction of seeing their handiwork in the statute books in a number of instances.

— Barr & Davis

HISTORY

(Continued from page one)

LL.B. '43, Professor of Law, Stanford University.

Responsible Government and the Judiciary, 1910-1930: Alexander M. Bickel, LL.B. '49, Associate Professor of Law, Yale Law School.

Depression, New Deal, and the Court in Crisis, 1930-1941: Paul A. Freund, LL.B. '31 m.c.l., S.J.D. '32, Carl M. Loeb University Professor, Harvard University.

Committee

This History of the Supreme Court results from Congressional Authorization to the President to appoint a Committee composed of the Librarian of Congress and four other members to be selected from panels submitted by American learned societies, for the purpose of using a part of the bequest of Justice Holmes' personal estate to the United States.

The Association of American Law Schools, the American Philosophical Society, the American Historical Association, and the Association of American Universities made the requested submission, and the Presidential appointees now serving on the Committee are Mr. Mumford, Professor Emeritus Edward S. Corwin of Princeton, President Virgil M. Hancher of the University of Iowa, and Dean F. D. G. Ribble of the University of Virginia Law School.

The Committee designated Professor Freund as editor-in-chief of the work.

Finances

The funds for the work are made available from the estate of Justice Holmes. He died on March 6, 1935, and left the bulk of his estate to the United States of America. The bequest has lain inactive over the intervening years and has grown, by accumulating interest from its original \$300,000, to over \$430,000. It has always been intended that the sum should be used to honor Justice Holmes in some fashion, and many felt that the erection of a statue or similar monument would not be in keeping with what he would have desired. In 1955 Chief Justice Earl Warren proposed that the fund be used to finance a history of the Court.

Professor Freund has described the history as being not only multi-volume, but multi-dimensional as well. The intent of the Committee is to present a work that will not only be of interest to the legal scholar or to the historian, but of a wider appeal.

They intend, in addition to discussing reasoning behind decisions of the Court, to explore the strategy and the tactics which brought cases to the court, the social context in which they arose, and the consequences of the decisions.

Stereoscopic

Not only will the work look at the decisions of the Court, but to use Professor Freund's words (*Record*, Nov. 8, 1956):

It will have to be stereoscopic too, in order to portray the Court in depth. The inner history of the Court, — the lives and outlook of its members, the rubbing of mind against mind in the process of collective decision, — this too is part of the life history of the institution.

It is expected that the authors will sift a great variety of source materials for this work. The official reports of the Supreme Court alone already total 355 volumes; the briefs and arguments of counsel contain innumerable pages and millions of words; the files of law offices, corporations, states and municipalities, historical societies and newspapers contain pertinent historical data; biographies, memoirs, correspondence and public utterances of the Justices, all will be looked to as possible source material for the work. Professor Freund has explained:

Supreme Court opinions are more than legal events. They are part of the great continuous debate on the right relations of government and citizen, a debate carried on through dissenting opinions of the Justices, through the discussion of opinions by a responsible, informed public opinion, and through the willingness of the Court itself to reconsider its decision in the light of a fuller knowledge and a changing social order.

Work has been actively under way on the History for about one and one-half years. Target date for completion of the manuscripts is 1961. The volumes, when they appear on the market, will appear consecutively, not concurrently, and not necessarily in chronological order. The History will be published by the Macmillan Company.

— Mulroney

Alumni Notes

LL.B. '06 — Douglas Van Dyke, 77, died on October 13, 1958. He had practiced independently in Milwaukee since 1930.

LL.B. '40 — Bentley Kassal was re-elected a member of the Assembly of the New York State Legislature as the Democratic-Liberal candidate. He represents the 5th Assembly District, New York County.

LL.B. '47 — Harvey Greenfield was elected Executive Vice-President of the Federal Bar Association of New York, New Jersey and Connecticut.

LL.B. '49 c.l. — Howard Monderer has been promoted by the National Broadcasting Co., Inc. from the position of New York Senior Attorney to Washington Attorney, and will have his offices at 4001 Nebraska Ave., N.W., Washington 16, D.C.

LL.B. '51 — Marcus D. Grayck has been awarded an LL.M. in Taxation from New York University School of Law. In

Law Wives

A Children's Christmas Party will be held by the Law Wives on Saturday, December 6, from 3 to 5 p.m. in the Wheeler Room of Holmes Hall.

On Wednesday, December 10, at 8 p.m. in Harkness Commons, Professor Theodore Wood, exponent of American folk lore, will entertain the Law Wives with ballads sung to the accompaniment of his guitar. He will also provide interesting historical background relating to the music. Professor Wood is associated with the humanities department at M.I.T.

In addition, an article of his entitled "Income Tax Transferee Liability of a Life Insurance Beneficiary" was published in 13 *Tax L. Rev.* 313 (1958).

LL.B. '54 — Robert J. Hoffman, formerly Assistant United States Attorney for the District of Massachusetts, has resumed his association with the firm of Hoffman and Hoffman for the general practice of law. They are located at Suite 810, 18 Tremont St., Boston, Mass.

Board Opens Opinion Contest

An opportunity has been opened for Justices of the courts of Ames to give written expression to their opinions (traditionally delivered orally only). The Board of Student Advisers has announced an Opinion Writing Contest for judges of first year Ames courts. A book prize will be awarded the winner who will be chosen, according to Contest chairman Louis Begley, 3L of Cambridge, soon after the last argument.

"The Contest is designed to give student judges a chance to put into practice some of the techniques of opinion writing which they have picked up from their courses," Mr. Begley stated.

In another innovation, Ky Ewing, 3L of University Park, Md., president of the Board of Student Advisers, has announced that briefs of all first year arguments are available for perusal by participants in the Board offices prior to post-argument brief writing conferences. These conferences, he emphasized, "are designed to raise points concerning comparative brief writing techniques, not to raise points concerning a particular Ames court's determination of a particular case."

BRAUCHER

(Continued from page one)

codes. He expressed the hope that the Japanese participants in the program would readily introduce their experiences into the discussions.

Although it is the Japanese American Program for Cooperation in Legal Studies which is sponsoring him and arranging, through the planning committee, his academic schedule, Professor Braucher, to fulfill the requirements of his Fulbright grant, will also deliver a number of lectures to Japanese undergraduate students.

Professor Braucher has expressed the hope that this program will succeed in increasing understanding of American components now present in the Japanese legal system, many of which are relatively new, having been placed there during the revision of that system following the close of World War II.

Professor Braucher will leave for Japan on January 30. He expects to return sometime in July.

— Rosenblum

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