

January 1955

THE PROGRESS OF THE LAW: REORGANIZING THE COURTS

Follow this and additional works at: https://digitalcommons.nyls.edu/nyls_law_review



Part of the [Law Commons](#)

Recommended Citation

THE PROGRESS OF THE LAW: REORGANIZING THE COURTS, 1 N.Y.L. SCH. L. REV. (1955).

This Article is brought to you for free and open access by DigitalCommons@NYLS. It has been accepted for inclusion in NYLS Law Review by an authorized editor of DigitalCommons@NYLS.

THE PROGRESS OF THE LAW

REORGANIZING THE COURTS

HAVING "Grown like Topsy," the time has come for a complete reorganization of the court system in New York State. This is the view of the Subcommittee on Modernization and Simplification of the Court Structure which was embodied in a plan submitted last month to its parent organization, the Temporary Commission on the Courts.

The plan calls for a flexible statewide system of five courts—some of the courts having various specialized divisions. And the object is to consolidate and unify the eighteen existing courts (including some 1,500 separate and semi-independent judicial entities), in order to achieve greater efficiency and to restore public confidence in the administration of justice.

It has been more than 100 years since New York State has seen a real court reorganization and the uncoordinated growth of our judicial structure has resulted in "administrative disorganization, jurisdictional complexity, fiscal confusion and personnel deficiency." At least this is what Subcommittee Chairman Louis M. Loeb declared in his report to Commission Chairman Harrison Tweed.

There would be little change in the organization of the top courts. The Court of Appeals would remain the same in organization and function, but would have the more "meaning-

ful" name of Supreme Court of Appeals. Below the state's highest tribunal would be the Appellate Court, organized on a department basis as the successor to the present Appellate Divisions and, to some extent, the Appellate Term.

Since the New York Supreme Court is not "supreme," the new Trial Court of general jurisdiction would be called the Superior Court. It would be organized on a county basis and would have unlimited jurisdiction over all cases in law and equity, both civil and criminal. It would absorb and supersede the Supreme Court, Court of Claims, City Court of the City of New York, County Courts, Court of General Sessions, the Surrogates' Courts, Children's Courts and the Domestic Relations Court in New York City.

Plans call for a number of separate divisions within the court to handle special types of legal problems. The Superior Court would have a criminal division, a youth division, a probate division, etc. Superior Court judges would also sit in Appellate terms to hear certain appeals from the lower trial courts.

Limited civil and criminal jurisdiction would be reposed in the District Court—a court which would supplant the New York City Municipal Court and Court of Special Sessions, the District Court of Nassau County, various city and village courts outside of New York City and the civil

side of Justice of the Peace courts. Magistrates Courts would also be created as courts of first instance with limited jurisdiction over matters other than civil cases. These courts would be concerned with traffic offenses, violation of local ordinances and the like.

During the next several months,

the Subcommittee will consider the criticisms of the bench and bar on these proposals and a final plan will be recommended looking forward to legislative action in 1956. If the plan is approved, the necessary amendment to the State Constitution can be put before the voters in the Fall of 1957.

FACTS AND FIGURES

THE *law business*—as something separate and distinct from the *profession of the law*—is a field of endeavor requiring special skills and special knowledge. It is likewise a field of endeavor in which facts and figures are of interest and import—albeit they tell little of the arts and techniques which are employed in the ever-present search for new and better clients.

Of considerable interest to the lawyers of the Empire State is the work of the Committee on Professional Economics of the New York State Bar Association. As a result of Committee labors, the New York bar will soon be armed with a comprehensive minimum fee schedule—containing vital figures which will be

of economic value to the New York practitioner. The Committee is also engaged in studies looking toward the dissemination of materials on law office management and articles on the subject are planned by both the *New York State Bar Association Bulletin* and your NEW YORK LAW FORUM.

The attention of the bar is called to a most interesting—and valuable—study of this latter subject which appeared in the May issue of *The Practical Lawyer*. Entitled "A Law Office System," the article is the first in a series on the timekeeping, bookkeeping, filing and card indexing phases of the operation of a law office. The author is Arch M. Cantrall of the Clarksburg, West Virginia, bar.

AWARDS AND SETTLEMENTS

RECENT weeks have seen stories in the local press dealing with more specific figures which are of interest to the practitioner. In May, a Brooklyn Supreme Court jury awarded \$200,000 to a woman whose husband was killed by a city bus which ran up on a sidewalk and struck him

after colliding with an auto. And, on the same day, the five-year-old son of a \$48-a-week presser in a garment factory was awarded \$190,000 against the New York City Omnibus Corporation in an out-of-court settlement for an accident that cost him his left arm and leg. The

settlement, which was announced on the eve of trial in the Supreme Court, New York County, is believed to be the largest on record for injuries to an infant.

Just a year ago, a 59-year-old marine surveyor was awarded a \$230,000 judgment in the New York Supreme Court for loss of his right leg when he was pinned under a falling wall which collapsed next to a fire-damaged North River pier. Newspaper accounts at that time sug-

gested that this may have been the largest award of its kind in the history of the court.

Another record award recently treated in the local press was the \$175,001 libel judgment against columnist Westbrook Pegler and two Hearst newspapers, which was affirmed on June 7 by the United States Court of Appeals. The damages received by Quentin Reynolds were said to be the largest ever levied in this country in a libel suit.

LEGAL FEES

AND what is the lawyers' share of such recoveries? And what *should* be the lawyers' share of such recoveries?

Much literature has been directed to the bar during the past six months concerning the *Proposed Rule of Appellate Divisions Relating to Compensation of Plaintiff's Attorneys in Personal Injury and Wrongful Death Actions*. Hearings are being (and have been) conducted before Hon. Isidor Wasservogel, Special Referee, to obtain opinions on a proposed Appellate Division limitation on contingent fees, which reads as follows:

"Receipt of compensation by plaintiff's attorneys in any claim or action for wrongful death or personal injuries in excess of 35 percent of the amount recovered, after deducting the reasonable expenses of prosecuting the claim or action, whether by judgment or settlement, is considered, except in unusual circumstances, to be unjustified and unprofessional. Any attorney collecting or sharing in

the collection of a total fee in connection with any such claim or action in excess of 35 per cent shall file in the office of the clerk of the Appellate Division a written statement setting forth the total compensation received and the division thereof and a statement of the unusual circumstances which were deemed to require the extra charge."

A great deal more will be heard on this matter in days to come.

While on the subject of fees, reference should be made to the article which appeared in the business section of the *New York Herald-Tribune* on June 12, 1955, dealing with the whopping \$861,000 award made to the firm of Guggenheimer and Untermeyer. This record fee, ordered by the United States District Court in Delaware, is the largest ever to win the approval of the Securities and Exchange Commission and possibly the largest in any reorganization case of recent history. It was

awarded to the New York firm and its associated firms in Wilmington and Washington for the legal services connected with the reorganization of Standard Gas & Electric System.

Firm efforts over the past ten years resulted in a \$150,000,000 increase in the value of the preferred and common stock holdings in the corporation.

LAWYER INCOME

AN important statistical study on lawyer income is presently in the research stages. The Department of Commerce has mailed 40,000 questionnaires to attorneys throughout the United States seeking data on 1954 earnings—and valuable figures should be forthcoming. The accuracy of the survey will, of course, depend upon the cooperation of the bar in responding to the questionnaire.

The latest lawyer income figures now available are based upon 1951 studies. The statistics show a nationwide average net income of \$9,375 and a median net income of \$6,956. Latest break-down by states was prepared on the basis of a 1947 survey in which the nation-wide average was \$7,532 and the median, \$5,698. At that time the New York State lawyer income average was \$9,024 and the median, \$6,632.

LAWYER POPULATION

MARTINDALE-HUBBELL's third statistical report on the number of lawyers in the United States has just been released. And the figures show an increase of nearly 20,000 members of the bar in the last three years. There are now 241,514 American lawyers, as compared with 221,605 in 1952. It is estimated that more than 200,000 are active in the pro-

fession.

The figures show 127,389 lawyers in individual private practice; 51,668 in partnerships, and 10,366 associates. There are now some 7,903 lawyers in judicial office and approximately 20,000 more in federal, state and local government service.

The number of lawyers in New York City: 23,539.

GETTING CLIENTS

"THE Wrong Turn" is the heading of the number one item in the Leonard Lyons column of June 5, copyrighted by the New York Post. And the story concerns a struggling lawyer who became a famous author—Clarence Buddington Kelland.

As a young member of the Detroit bar, Kelland rented an office on the top floor of the cheapest building in town. About that time Henry Ford decided that the car he had developed could at last be patented—and he went in search of a lawyer.

Let lawyer-turned-columnist Lyons tell the tale:

"Mr. Ford had no money. He therefore walked through the city until he found the poorest office building, and walked to the very top floor. There he saw two law offices. He decided to enter the office on the left. No, not young Kelland's which was on the right. Ford and the lawyer made a deal for the legal fee: He didn't have the \$25 fee, but of-

fered the lawyer, instead, \$1,000 worth of stock in his new company.

The lawyer took it.

"This stock, given in lieu of a \$25 fee, eventually was sold for \$12 million. This would have been Kelland's, had Mr. Ford turned to the right instead of the left, in choosing between the two law offices. 'But I don't mind losing this \$12 million,' said Kelland, 'because I've had a full, good life anyway.'"

HOOVER COMMISSION REPORT

LAST March saw the publication of the now-famous Hoover Commission *Report on Legal Services and Procedure*. It was a report to the Congress from the Commission on Organization of the Executive Branch of the Government. And it was a report containing 52 specific recommendations designed to increase efficiency, improve coordination and eliminate confusion in government law business.

The report is contained in an official, 115-page booklet prepared in the United States Government Printing Office. Copies *may* be obtained gratis from your Congressman, or purchased through the Superintendent of Documents at the nominal charge of 45 cents. Starting in the June issue, the *American Bar Association Journal* will publish a three-part series of articles on the Commission's Recommendations, written by Whitney R. Harris, A.B.A. Executive Director, who was staff director of the Hoover unit's task force.

Among the more significant recommendations:

Strip federal executive agencies of some of their judicial powers by the creation of an Administrative Court of the United States. The Court would have three divisions: a tax section to replace the Tax Court; a trade section which would have the limited jurisdiction in the trade regulation field now vested in nine major agencies and departments including the F.T.C., I.C.C., F.C.C., and the Interior and Agricultural Departments; a labor section which would supplant the functions of the N.L.R.B. in unfair labor practice cases.

Transfer other judicial functions such as the right to levy fines and issue injunctions from administrative agencies to existing courts, wherever possible.

Create a separate career service for federal civilian attorneys with salaries up to \$17,500 a year (present limit \$11,800) to attract top caliber men.

DOCTORATE DEGREES AWARDED

THREE distinguished members of the New York Law School family were awarded honorary Doctor of Laws degrees on June 16, 1955 at the School's Commencement Exercises at the Waldorf-Astoria.

The recipients: Associate Justice John Marshall Harlan of the United States Supreme Court, an alumnus of the Class of 1924; Associate Judge Charles W. Froessel of the New York Court of Appeals, an alumnus of the Class of 1913; and Archibald R. Watson, Clerk of the Supreme Court of New York and of the County of New York, President of New York Law School.

Commencement speaker was Chief

Judge Albert Conway of the New York Court of Appeals.

Associate Justice Albert Cohn of the Appellate Division, First Department, an alumnus of the Class of 1908, presided and conferred the degrees upon the graduating seniors.

A gala dinner honoring Messrs. Harlan, Froessel and Watson was held prior to the commencement exercises under the auspices of the New York Law School Alumni Association. Chief Judge Charles E. Clark of the United States Court of Appeals, Second Circuit, was the speaker. Justice Ferdinand Pecora, President of the Alumni Association, presided.

The citations read as follows:

JOHN MARSHALL HARLAN

DISTINGUISHED son of a family distinguished in the law; reared in the highest traditions of the bench and bar, the grandson of a judge who served his nation on the Supreme Court of the United States and the son of an attorney who performed notable service as a member of the Interstate Commerce Commission; trained for his career at Princeton, Oxford and New York Law School; in thirty-one years of brilliant service in and for his profession, he has been outstanding as an office and trial lawyer, and as judge and public servant; senior partner in the distinguished firm of Root, Ballantine, Harlan, Bushby and Palmer before donning judicial robes, he was ever available

to his state and nation for services which only a man of his stature could perform; assistant United States Attorney early in his professional career, he was Chief Assistant to New York's special prosecutor in the 1928 graft investigation, and Special Assistant Attorney General and Chief Counsel to the New York State Crime Commission from 1951 to 1953; a soldier when his nation needed soldiers, he pioneered important developments in the growth of the United States Air Forces, and as a Colonel was awarded the Legion of Merit and the Croix de Guerre of both France and Belgium; appointed to the United States Court of Appeals, Second Circuit, in 1954, his

outstanding capabilities as lawyer and jurist led to his well-deserved appointment to the Supreme Court of the United States this year.

Citation by President Archibald Robin-

son Watson on the award of the degree of Doctor of Laws to John Marshall Harlan by New York Law School, June 16, 1955, presented by Hon. Nathaniel Goldstein, former Attorney General of the State of New York.

CHARLES WILLIAM FROESSEL

HONORED leader of his Community, his State and his Profession; educated at New York Law School where he received both the Bachelor of Laws and Master of Laws degrees; Associate Judge of the Court of Appeals of the State of New York after a career of honor and distinction in legal and judicial office; rising in public service through the successive offices of Counsel to the Sheriff of Queens County, Assistant District Attorney in Queens County, Special Assistant to the United States Attorney General, Justice of the City Court of the City of New York, and Justice of the Supreme Court of the State of New York; served as an officer of the United States Navy in World War I; respected and revered by his brethren at the bar, and chosen to lead and serve them as President of the Queens County Bar Association, Chairman of the Judicial

Section of the New York State Bar Association and member of the Character Committee, Second Department; equally respected and revered by his community and chosen to lead and serve them as a high official of the Boy Scouts of America, as a moving spirit in the Big Brother Movement, the Conference of Christians and Jews, the Queens Federation of Churches; served as Grand Master of New York and Chairman of the Conference of Grand Masters of the United States, Free and Accepted Masons; always devoted to legal education as well as to law, he has served with distinction as a member of the Board of Trustees of New York Law School.

Citation by President Archibald Robinson Watson on the award of the degree of Doctor of Laws to Charles William Froessel by New York Law School, June 16, 1955, presented by Hon. Charles H. Griffiths, former Surrogate, Westchester County.

ARCHIBALD ROBINSON WATSON

DYNAMIC leader in the progress of the law and the legal profession; veteran of fifty-three years of distinguished service at and for the New York Bar; an outstanding American honored in the councils of the Society of Mayflower Descendants and the Sons of the Revolution, he has ever subordinated his legal career to the

demands of public service; he has served New York City as Corporation Counsel and has served New York State as Clerk of the Supreme Court of New York and County Clerk of New York County; member of numerous legal organizations, he served in 1907 as Chairman of the Incorporation Committee of what is

now the largest local bar association in the world, the New York County Lawyers' Association, of which he is the sole surviving member of the original Board of Directors; writer and editor, he has recorded the law of New York for generations yet unborn as founder and editor of the *Bench & Bar* and *New York Law Review* and as editor of the *United States Law Review* and *New York*

Law Journal; and he has earned the gratitude and praise of generations of lawyers-to-be not only as lawyer and editor but also as legal educator—as the guiding spirit and President of New York Law School.

Citation by Charles William Froessel, on behalf of the Board of Trustees of New York Law School, on the award of the degree of Doctor of Laws to Archibald Robinson Watson, June 16, 1955, presented by Hon. Joseph A. Cox, Justice of the Supreme Court of the State of New York.

THE RIGHT OF DISSENT

UNHERALDED—and as yet unreported—is the decision of the Supreme Court of Pennsylvania late last May in the case of *Musmanno v. Eldredge*. This is not a significant case; it has contributed little to legal learning; and the layman can well be expected to greet the opinion of the court with a curt "who cares?"

But this is a lawyers' story which should be told to and enjoyed by lawyers. It is the story of Michael A. Musmanno, justice of the Supreme Court of the Commonwealth of Pennsylvania, and Laurence H. Eldredge, State Reporter. And the pomp and circumstances surrounding the case boils down to just this:

On March 17, 1954, the Tribune-Review Publishing Co. applied to the Supreme Court of Pennsylvania for a writ of prohibition against the judges of the Court of Common Pleas of Westmoreland County. The writ was designed to prevent the enforcement of a rule of court prohibiting photographers from taking pictures in or near the courthouse and jail of Westmoreland County. The general

feeling of the Pennsylvania Supreme Court was that no justiciable question was presented, since no one had been arrested or punished as a result of an alleged violation of this rule of court. Justice Musmanno disagreed.

It was then suggested by counsel and by one or more members of the Supreme Court that an amicable test case could be prepared in order to resolve the constitutionality and legality of the court rule. However, the test case never came to pass and a *Per Curiam* opinion was filed on June 29, 1954 calling for a dismissal of the petition for a writ of prohibition. Nine days later, Justice Musmanno filed a dissenting opinion with the prothonotary (clerk) and sent copies to the other justices of the court.

What followed was a long series of conferences involving a possible amicable test case and another long series of conferences relating to the printing of the opinions submitted in the *Tribune* proceedings. On November 11, 1954, Justice Musmanno was informed by State Reporter Eldredge

that the dissent would not be published. Justice Musmanno thereupon brought a mandamus suit in the Court of Common Pleas of Dauphin County asking that Eldredge be "commanded" to print his dissenting opinion in the official state reports.

Horace Stern is Chief Justice of the Supreme Court of Pennsylvania. On November 9, 1954 he wrote a letter to Reporter Eldredge instructing him "not to publish the dissenting opinion which was filed subsequent to the filing of the *Per Curiam* opinion." It was this letter which led to Mr. Eldredge's communication of November 11, 1954 to Justice Musmanno—and which led the Dauphin County Court of Common Pleas to deny mandamus. The justice appealed his own case to his own Supreme Court.

In the meantime, others "got into the act." George Wharton Pepper, distinguished Philadelphia Lawyer, and the late Owen J. Roberts, formerly Associate Justice of the Supreme Court of the United States, entered an appearance in behalf of Reporter Eldredge. And syndicated columnist George E. Sokolsky devoted his writings of May 5, 1955 to a nationwide presentation of Musmanno's dissenting opinion. Sokolsky wrote:

"This case affects freedom of the press more than it does the right of Justice Musmanno to have his dissenting opinion published along with the majority opinion. What matters here is that a gag-rule is being applied; the attempt is made to withhold the truth from the people; and

that a fighting judge is risking the good-will of his colleagues to fight for American rights and privileges under the Constitution."

The final decision has finally been made. The crux of the dissent may be read in Mr. Sokolsky's column, but not in the official State Reports. And the West Publishing Company has been advised "to be likewise guided" by the instructions of the Court. The following is from the latest *Per Curiam* pronouncement:

"The appellant asserted that we have discriminated against him in the matter of the filing and publication of dissenting opinions,—that there is one rule for him and a different rule for the other members of the court. . . . In the little more than three years that the appellant has been a member of this court he has filed and has had published in the official State Reports, with this court's full approval, more dissenting opinions than all the other members of the court combined . . . Not only . . . did appellant file his opinion . . . without circulating it among the other members of the court, but he filed it after the court had adjourned its sessions for the summer and its members were scattered. Thus we were effectually denied the opportunity, indeed the fundamental right, of seeing, reading, or considering the dissent before the appellant made it public. It need hardly be said that if such a breach of the basic rules of appellate court practice were to be permitted a court could not properly perform its functions."

ENTERTAINMENT DEPARTMENT

WHILE the pursuit of justice has ever remained the *chef d'oeuvre* of the legal profession, the lawyer has not been slow in lending himself, his techniques and his *corpus juris* to the world of entertainment. Gone are the days when lawyer histrionics made the county court house the nation's chief source of recreation, but, like all good troupers, law and lawyers have kept up with the times and have been ready to go on-stage whenever the audience has sought newer forms of amusement.

Law and lawyers are everywhere in the world of entertainment. Lawyer Earle Stanley Gardner writes mystery stories, lawyer Elmer Rice writes plays, lawyer Leonard Lyons is a nationally syndicated columnist. Lawyer Eric Johnston makes the decisions which regulate the motion picture industry, and lawyers like Walter O'Malley and Branch Rickey control the destinies of the Brooklyn and Pittsburgh baseball teams.

But this is only a small part of the story. One of Broadway's hit plays these days is "Inherit the Wind," a dramatization of the famous Scopes "Monkey" trial, with Paul Muni in the Clarence Darrow role and Ed Begley portraying William Jennings Bryan. Recent lawyer movies include the excellent French film, "Justice is Done" and such top-notch American products as "The Caine Mutiny" and the forthcoming "Trial." And there is a syndicated comic strip, running locally in the *New York Herald-*

Tribune, dealing with the legal activities of one "Judge Parker."

Most of the law-lawyer portrayals today are presented through the medium of television. Some have been excellent; some have been hopelessly bad. Certainly one of the best was the United States Steel Hour presentation of "The Rack," back on April 12th. The production dealt with the court martial of an American Army officer who had signed pro-Communist leaflets while he was a "brain-washed" prisoner during the Korean conflict. It was an absorbing drama—and, at the same time, accurate in its presentation of courts martial procedures and the legal issues involved.

One of the worst was the Lux Video Theatre presentation of April 21 which centered about a would-be mercy killing. The legal philosophies expressed were childish to the extreme; the courtroom procedures were closer to science fiction than to reality; and the drama was hurt rather than enhanced by the complete lack of understanding of what judge and lawyers do and what the law is.

Several "legal" series have also come to television. "Public Defender" reenacts the case histories of persons wrongfully or too hastily accused of crimes who come to the offices of the public defender because they cannot afford the services of a private attorney. "Justice" takes its base materials from the files of the National Legal Aid Association. Both emphasize the careful research neces-

sary for the preparation of a case, and both rely heavily on the dramatic potentials inherent in the lawyer-client relationship.

Here is a side light on the "Justice" show, taken directly from the press release distributed by the sponsor's advertising agency:

"Gary Merrill, who is getting a lot of legal inquiries as a result of his steady role as Jason Tyler, the Legal Aid lawyer on the 'Justice' series over NBC-TV, received a worried query as follows: 'Dear Sir: At the moment I am not in trouble nor do I count on getting into trouble in the future. But if I do get into trouble and do not have the money for a lawyer, what lawyer (or lawyers) in my community could I go to for help? Thank you.'"

A somewhat different lawyer presentation is found in the comedy situation program entitled "Willie." This is another half-hour weekly series—but this is devoted to the adventures and misadventures of a female barrister from Down East who seeks her fortune at the New York bar. The show has many of the same characteristics as the all-time record endurance program in the legal field—radio's "Portia Faces Life."

No discussion of lawyers in the mass media would be complete without appropriate reference to the new 34-minute sound film entitled "Dedication to Justice." Produced for and presented by the American Bar Association, this documentary motion picture tells the story of the organ-

ized bar and its service to the profession and the public. It is designed to educate laymen in the ways that lawyers, individually and through their bar associations, serve the public interest. To quote from the circular on the film: "It is a timely, informative portrayal of the role of law in American life, designed to interest both lawyers and laymen. Its audience appeal is heightened by its adaptation to the motion picture screen of the sprightly and dramatic technique of the news-type television interview."

The cast includes Chief Justice Earl Warren; Judge Harold R. Medina of the United States Court of Appeals; William J. Jameson, former president of the American Bar Association; Dean E. Blythe Stason of the University of Michigan Law School; Robert B. Troutman, former president of the Georgia Bar Association; Cecil E. Burney, former president of the State Bar of Texas; Richard Bowerman, former chairman of the American Bar Association's Junior Bar Conference; Mrs. Edward H. Cumpston, a member of the staff of the National Legal Aid Association; and Eric Severeid, Columbia Broadcasting system news analyst.

"Dedication to Justice" is being made available to bar organizations without cost (except actual postage and handling charges, not to exceed \$5.00) for periods of not more than ten days. It is expected that the film will be shown at bar meetings and at the meetings of various school, lodge, business and civic organizations.

CIVIL LIBERTIES

SOME of the most interesting items on law and the legal profession are now being distributed via the weekly *Feature Press Service* releases of the American Civil Liberties Union.

News reaches us from the West coast that the Governors of the State Bar of California have rejected two of three proposed changes in the Business and Professions Code which would have led to the disbarment of attorneys under fire in loyalty-security cases. Rejected was a proposal to disbar lawyers who took refuge in the Fifth Amendment in refusing to answer questions about membership in subversive organizations. Also turned down was a proposed amendment to the Code which would have led to the disbarment of attorneys for "acting disrespectfully toward congressional or legislative committees."

The Governors voted, however, to ask the State Legislature to enact a law to disbar or suspend attorneys who "advocate or teach the violent overthrow of the government."

Another recent item deals with the action of the Arkansas Legislature in defeating a sweeping censorship bill and an anti-nudism bill. The former measure would have prohibited the publication or dissemination of any obscene material in any medium of communication whatsoever, and would have made it an additional crime to give information as to where such material could be obtained. The anti-nudism bill, which defined nudism as congregating with the body exposed in the presence of "one or more" of the opposite sex, would also have outlawed the publication, sale or possession of literature promoting nudism.

NECROLOGY

THE subject of "Necrology" really belongs elsewhere than in a section entitled "The Progress of the Law." For the passing of the leaders of our profession is a loss to the cause of law and justice—as well as a personal loss to those who practice at the bar.

Six of the best known members of the American bar have died during the past several months. One of them is the man who rightfully earned the title of "Mr. Lawyer"—John W. Davis. The bar also mourns the passing of trial lawyer Lloyd Paul Stryker, a New York Law School

alumnus, Col. R. R. McCormick, lawyer-publisher of *The Chicago Tribune*, Paul V. McNutt, former High Commissioner of the Philippines, and Thomas L. Sidlo, former chief counsel of the Scripps-Howard newspapers and a leader of the American Bar Association. The sixth of these leaders of the American bar was Lyman Duff, a justice of the Supreme Court of Canada for 38 years and Chief Justice of Canada for eleven of those years. It was he who delivered the important opinion declaring that the decisions of the

Canadian Parliament might not be appealed to the Privy Council in London.

Brief tributes to lawyers Davis and Stryker appear on page 206 to 210 of this issue.

Less well known on the national scene, but equally admired and respected by the New York legal fraternity was Aaron Frank, professor of law at New York Law School and former Third Deputy Police Commissioner.

Beloved by his colleagues and students at New York Law School where he taught for 28 years, Aaron Frank was described by the press as "one of the most popular men a New York cop ever saluted." And this was no

small compliment, for Aaron Frank sat in judgment on scores of policemen at departmental trials during his services as a Deputy Police Commissioner.

He was born in New York City in 1903 and graduated from New York University in 1922. For ten years he served as a trial examiner for the State Labor Relations Board and for many years as an arbitrator for the American Arbitration Association. He resigned his police post in 1953 to campaign for the Democratic nomination for borough president of the Bronx on Mayor Vincent R. Impellitteri's ticket, but was defeated by Borough President James J. Lyons in the primaries.

AN ACKNOWLEDGMENT OF CREDIT

THE FORUM wishes to acknowledge its thanks and appreciation to Edward L. Friedman, Jr., Esq., of the New York bar, whose draft of an article on Mr. Justice Harlan comprises a substantial portion of the biographical sketch of the Justice

which appeared in our March, 1955 issue. These materials were furnished to THE FORUM unbeknown to Mr. Friedman, and, as revised, appeared in the May, 1955 issue of the *Notre Dame Lawyer*.