Humanities

Law as the Art of Balance

"Law," according to Paul Abraham Freund, "is a system for imposing a modicum of order on the disorder of human experience without disrespecting or suppressing a measure of spontaneity, diversity and disarray." Professor Freund's office at Harvard University Law School reflects this view—order within disarray. In the midst of mountains of documents, books and half-open packing cases, he sits like a large bird in his nest, very much at home. One soon finds, however, that the seeming chaos is a studied one and that Professor Freund can put his hand almost immediately on any document he wants. "You develop an archaeological sense of layers," he explained, ranging from the pleistocene age which marks the monumental 11-volume history of the Supreme Court, of which he is editor-in-chief, to the modern era which deals with "whatever essay was due yesterday."

Professor Freund at 67 is generally regarded today as the nation's outstanding authority on the Supreme Court and constitutional law. This year he has been chosen as the 1975 Jefferson Lecturer in the Humanities. Accordingly, on April 30th at the invitation of the National Endowment for the Humanities, which sponsors the award, he will come to Washington, D. C., to speak on the topic, "Liberty of Expression: the Search for Standards."

As an undergraduate at Washington University in St. Louis, his native city, he majored in English Literature and Political Science, but then he chose to study law at Harvard University. "I wanted to do something that engaged both the logical and literary faculties and might have some impact.

"I didn't go into it with any idea of reforming the world," he continued. "Today a lot of young men do go into it with that idea and many of them are disillusioned because they've set their sights unrealistically high, but it remains true that one can have an impact through the law in a modest way."

At Harvard, Paul Freund came to the attention of Professor Felix Frankfurter, who had not yet received his appointment to the Supreme Court, but who knew the Justices and was regularly called upon to make recommendations from among his top students for the coveted position of Law Clerk. It was through Frankfurter that in 1932 Freund became Law Clerk to Supreme Court Justice Louis Brandeis. For Freund, this was the beginning of what he calls his "wonderful year." "My relations with the Justice were exceptionally close. I learned many things, least of all the substance of the law. I learned how a great man conducts himself from day to day, how he maintains relationships with his colleagues, and, above all, I found Brandeis a supreme moralist and teacher."

"I arrived at nine in the morning," he said, describing a day at the office. "But Brandeis' working day (and he was then 76) began hours before at some time which I could guess only by circumstantial evidence, namely, the books on the floor that he had gone through, the pages that he had composed. He probably began his working day around five so that by the time his law clerk arrived at the gentlemanly hour of nine, the Justice had done a pretty good day's work.

"However, by way of offset, he did not work at night while his clerk worked all hours of the night. There is a legend that one of his law clerks, completing a memorandum at 5:00 a.m., slipped it under the Justice's front door and felt it being retrieved on the other side. It wasn't I, but the story rather set a model for the law clerk's working habits."

"The Justice treated the clerk as an equal. He always spoke of *our* work, of 'we' in terms of the labors on an opinion. Dean Acheson, who was Brandeis' law

Professor Paul A. Freund, who will deliver the 1975 Jefferson Lecture in the Humanities on April 30 in Washington

clerk for some years before me, has said that his duties could be very simply described: he wrote the footnotes and Brandeis wrote the text. That was not quite true, at least in my year. He welcomed all of the research help that one could give him—whether it might be incorporated into the text of the opinion or the footnotes. If you presented him with such a draft, he accorded it the same ruthless treatment that his own first drafts received. His opinions sometimes went through dozens of revisions. He used the government printing office as a kind of secretary. The material was sent there at night, and two copies were brought in by messenger the following morning, one for him and one for the law clerk.

"He was a perfectionist. His aim was to persuade even the losing counsel of the rightness of a decision, an aim that always seemed to me to be unrealistic. Sometimes a single opinion would occupy the two of us for 6 weeks. I learned the labyrinths of the Library of Congress because his research or his demands ranged far beyond conventional law books to the social, economic and political background of laws that he had to consider."

After his year with Brandeis, during which he also received his degree as Doctor of Juridical Science at Harvard, he worked for 7 years for the government, mostly in the Office of the Solicitor General. There, he argued some 30 cases before the Supreme Court and prepared innumerable briefs. Freund's personality and philosophy were shaped during those years of the Depression and Franklin Roosevelt's New Deal. He recalls the uncertainty, confusion, almost desperation in the air. "It was an exciting period and the lights burned late at night in all the departments of government. In the early days of the New Deal no one seemed to be sure of any answers. It was a great opportunity for juniors in government to be listened to and indeed to be sought out because the seniors were at their wits' end. It was a wonderful time for minds to come together without regard to prestige, age or rank."

His True Vocation

But Professor Freund always regarded his years with the government as a preparation for his true vocation, teaching. "You feel somehow readier; you feel more legitimate, so to speak, if you've been through what you're teaching." Lacking such experience, Freund thinks, "is like being a professor of surgery without ever performing an operation. Besides, I have a yearning to know more, to study, to be my own master, and I had the mad illusion that in teaching one had infinite leisure for such things."

The result was that he joined the Harvard faculty in 1939 and, except for a return to the Solicitor General's Office during the Second World War, has been teaching there ever since, holding several of the most distinguished chairs in the Harvard University Law School. His election in 1968 as Senior Fellow of the Society of Fellows enables him to carry on his research and teaching in any part of the University.

At the moment, because of the demands of his writing, he has time to teach only in the Law School. But he is a great believer in having professors in graduate schools also teach undergraduate courses and, up until 2 years ago, he combined his law school teaching with an undergraduate course in the legal process. He rated that course as equal in importance to his graduate courses.

"The experience of teaching undergraduates was always immensely enjoyable because the range of relevance is so much broader. One isn't preparing people for professional life so one can pick and choose topics in the law in a way that isn't possible if you're giving a conventional subject in a professional school.

Great Thirst for Law

"There's been a great thirst for law in college students these days. I've had classes of up to 800 given in Sanders Theater where I had to wear a neck microphone. Not an ideal teaching situation, but I decided not to limit enrollment—if the students wanted exposure, who was I to deny it to them?

"I would hope, without engaging in cultural imperialism, professional schools could contribute more than they have toward undergraduate education. Obviously, these must not be vocational courses. They must be broadly conceived. But they can have the advantage of bringing a range of learning into focus on problems that engage the interest of young people —social studies, government, maybe even philosophy. I'm quick to add, however, that I think this should be a two-way street—that the professional schools should also have an infusion of liberal arts beyond what they now enjoy."

Professor Freund thinks education should be directed to the making of a whole person. The search for truth, right and justice should be a unit. Education should offer many roads, but a common goal.

"I think specialization has been a bane and we need more generalized views, but of course the art is to achieve that without loss of rigor." The rigor, he believes, comes in logic, straight thinking, relevance, of being self-conscious about the thinking process, of being aware that premises are chosen rather than ordained. One must be sensitive to the historical sources of knowledge and use them to deal with vexing problems.

How then did he feel about the students of the late sixties? They acted, he said, as though history began tomorrow morning and they wanted to start a tradition today. "I tried to respect the impulses behind the movement, but it was hard for me to do because the means employed were so unprincipled and so counterproductive that the leaders were their own worst enemies.

"I'm very hopeful about the present generation of students, both law and undergraduate. I think they do have the divine discontent and are going to work toward change, but they are going to do it by means that are both more principled and more effective."

Over the years, Professor Freund has achieved a

reputation, not only as a teacher, but as a scholar and authority in his field. He has written numerous articles and several books and is much in demand for his brilliant lecturing on constitutional issues dramatized by Supreme Court decisions. His success as scholar and writer led to his appointment as editor-in-chief of the monumental project, commissioned by Act of Congress, on "The History of the Supreme Court of the United States," which will comprise 11 volumes by eight authors. Professor Freund says he has been working on it more years than he likes to remember. Three volumes have already appeared and several others are near completion. The need to get on with it is one of the main reasons why he has decided reluctantly to cut in half his academic work next year. His own volume, not yet completed, concerns the New Deal period under the Chief Justiceship of Charles Evans Hughes.

25th Amendment

Professor Freund has made it a principle not to get involved in private litigation, but he is often consulted by public bodies and officials. He has testified a number of times before Congress for or against various constitutional amendments. Recently, he played a role in arguing for and shaping the newly-adopted 25th Amendment, which deals with problems of presidential power and succession.

In addition he is often called upon for commemorative lectures on the personalities and accomplishments of justices and judges he has known. He recently wrote the introduction to the catalogue of a current Harvard Law Library exhibit of the papers, letters and memorabilia of Justice Oliver Wendell Holmes. Professor Freund's office contains some highly-prized, somewhat yellowed, signed pictures of distinguished justices and judges and nothing pleases him more than to reminisce about his experiences with them.

He recalls as a young man his one and only meeting with Holmes, who was 92 years old and retired. "I was invited to go to his home with Tom Corcoran who had been his law clerk and who saw him once a week. We were ushered into his second floor study. Holmes was very erect, very starched, with a black frock coat and grey striped trousers. Corcoran asked the Justice what he would advise a young man in Washington to do. Ought he to stay on or ought he to go back to his own community? 'Oh, Tom,' he replied, 'I am much too old and out of things to have any view on that.' Corcoran, who had an ebullient, Celtic temperament, said, 'That's nonsense, Mr. Justice, you are the primal flame to whom we come to light our torches.' Holmes, who, I think, was not displeased, said, 'Well, Tom, there may once have been a little spark, but now all is ashes.' There was deathly silence, but Holmes, you see, had carried out his side of the metaphor so beautifully, so brilliantly. It was a perfectly rounded dialogue.

"After we left, I asked Corcoran if Holmes was always in that mood of despondency. And Corcoran said, 'Oh, no, not at all. He's just putting on an act.' There was a strain of dramatization, of the theatrical in Holmes. He carried it off superbly."

For all his preoccupation with the Supreme Court, Paul Freund does not believe in placing too much emphasis on it. "We would be in dire straits if we had to rely on nine men, however wise." Professor Freund said he would rather trust the diffusion of responsibility and a growing expertness at the service of a common will. "The Supreme Court is a court of last resort, a check on outrageous decisions, but it is not a primary policy maker. It can't be; it isn't trained to be; it isn't supposed to be."

Nevertheless, Freund is very much aware of the historic importance of some Supreme Court decisions in recent years, particularly the decrees to desegregate the schools and to legalize abortions. The most significant thing about the abortion decision, in Freund's opinion, was that the Court agreed to deal with a subject that was tabu not many years ago. While he doesn't think the solution to our problems lies with the Supreme Court, neither does it lie with Congress nor any branch of government. It does not even lie with wise laws wisely enforced, but rather with a better educated, more ethically sensitive populace.

Freund warns against the True Believer, doctrinaire in his beliefs, the fanatic who holds to absolutes, whether that absolute is liberty and nothing else, equality and nothing else, or truth and nothing else. He likes to quote Lord Acton's statement that "an absolute principle is as absurd as absolute power." Freund's rule is, "When you perceive a truth, look for the balancing truth. We need to recognize the complementarity of principles. A principle like liberty, for example, if taken as an absolute would lead to anarchy. The principle of truth must be treated in context. Should one always tell the truth? Suppose telling the truth would hurt a person? In law, the art is to see the balancing truths and to reach a satisfying accommodation. I think this is true in life."

In one of his essays Paul Freund has written, "Does not law, like art, seek to accommodate change within the framework of continuity, to bring heresy and heri-

Professor Freund among his papers in his study at the Harvard University Law School

tage into fruitful tension? . . . The basic dilemmas of art and law are, in the end, not dissimilar, and in their resolution—the resolution of passion and pattern, of frenzy and form, of convention and revolt, of order and spontaneity—lies the clue to creativity that will endure." This idea of law as not being something we can appeal to for ultimate authority and rational certainty, or for definitive answers to our problems can be disturbing to those who are looking for security in the so-called "rule of law." But Professor Freund thinks that in law, as in life, reason cannot operate unaided. "It has to be directed. Why do we choose a certain problem, one premise rather than another, liberty of the individual rather than self-immolation for the State? Something in the temperament, in the tradition must operate coherently and accountably."

Majestic Guarantees

In a lecture entitled "New Vistas in Constitutional Law," which Freund gave in 1963, he said, "I have likened the Constitution to a work of art in its capacity to respond through interpretation to changing needs, concerns and aspirations." Freund believes the Constitution has held up for nearly two hundred years because its majestic guarantees, despite their generality, have a core of meaning that can be applied to the felt necessities and ideals of the time. "No cruel and unusual punishment, no unreasonable searches and seizures, freedom of speech and religion. These are general values that are still held—at least on Sundays," Professor Freund added with a twinkle in his eye. "But the working of these principles requires constant adaptation. The denotative meaning of cruel and unusual punishment in the 18th century is not the standard for today. Witness our attitude toward capital punishment. Equality for everyone did not apply toward slaves. And as for freedom of speech, we're moving toward much greater freedom, for example in the area of obscenity, than would have been tolerated, certainly, a hundred years ago."

But for all the energy that has gone into his writings and research on the Supreme Court and constitutional law, Freund regards teaching as his first responsibility. "Here at Harvard University Law School, we do have large classes. We read our own exam books, hundreds of them. In addition, I have some 30 seminar dissertations to read so that being a professor here, with a large student body together with the practice of the open door, is a consuming job. We have no office hours; all hours are office hours."

Despite the growing tide of pessimism and prophecies of doom, Professor Freund remains a believer in progress and is incorrigibly optimistic. When confronted with the bleak prospect of nuclear war, continuing dictatorships, the population explosion and environmental pollution, he replies that, considering conditions during the industrial revolution as Dickens depicted them, the brutality of that period is appalling by modern standards. He thinks also that our capacity for cooperation has developed, that we are aware of the problems as never before and we have a stronger sense of moral outrage. "Certainly, the dictatorships have been a terrible manifestation of the irrational within us. Nevertheless, I believe we've learned from the experience." Poverty is no longer considered an inevitable fact of life and we now assume, as we never did before, that medical resources and education can be made available to all segments of the population. "We're rather pitifully equipped for these tasks because of lack of knowledge and lack of will. But the recognition of the vital responsibility of making the right choice is the first step, it seems to me, on the way to our secular salvation."

And even if all we have left is a stark existentialism with no spiritual or metaphysical realities or truths to hold onto, Freund does not think this means we are incapable of meaningful and purposeful lives. He remarked that Justice Holmes, who he claims was an existentialist, spoke of dedicating oneself to the actions and passions of the time on penalty of being judged not to have lived. Even though it turns out that values are man-made, the ultimate mystery remains for reverence. "The awe, the unique wonder of existence itself is here. Whether you disavow any divine cause or divine presence or divine intervention, that remains. A person is blind who doesn't feel that." And given that reverence, our situation cannot be regarded as altogether hopeless. At least those are the sentiments of Paul Abraham Freund.

With a reasonable and realistic faith like this, one can understand the remark of one of his friends, "There is a world shortage of sages these days, but Paul Freund is *one*." □

Roger Lyons, author of the above article, is a consulting editor for the Voice of America.

Principal Works of Paul A. Freund

On Understanding the Supreme Court, Little Brown and Company, 1949.
Constitutional Law: Cases and Other Problems (Co-editor), Little Brown and Company, 1954.
The Supreme Court of the U. S.: Its Business, Purposes and Performance, Meridian, 1961.
Religion and the Public Schools (Co-author), Harvard University Press, 1965.
On Law and Justice, Harvard University Press, 1968.
Experimentation with Human Subjects, Braziller, 1970.
History of the U. S. Supreme Court (Editor-in-Chief), in process.
Contributor to Encyclopaedia Britannica, Encyclopaedia of Social Science, legal periodicals.

Genesis of Laws

Here's a small quiz for those with a legal turn of mind:

In what body of law did the following legal principles originate?

- A person's promise to perform when given orally is as binding as a written contract.
- Consent to taxation.
- The ruler is bound by the law.

If your answer was English Common Law, it is wrong. If you said the Napoleonic Code or Roman Law, sorry. The correct answer on all three counts is: Medieval Canon Law—a body of principles and doctrines which evolved in the Roman Catholic Church over several centuries and has greatly influenced modern law.

The legal principles listed above are only a few of many discovered by scholars digging through manuscripts in the Vatican Library. Painstaking research has in fact put an entirely new perspective on the role of medieval legal scholars and writers in establishing the foundations of western society.

Present-day legal historians have long been aware that all western legal systems owe their heritage to law and jurisprudence first set forth in ancient Rome. They also know that the canon law of the medieval church was the vehicle for transforming Roman legal thought and infusing it into the institutions of western society. But, until recently, very little was known about the actual development of medieval canon law itself—the people who wrote it, and their thought processes—because the information was bound up in 4,000 Latin manuscripts preserved in the Vatican Library. Indeed, a great deal more remains to be learned, according to Dr. Stephan G. Kuttner, a scholar who has devoted much of his 68 years to the study and publication of the original manuscripts.

Dr. Kuttner, a Catholic of Jewish ancestry who left Nazi Germany in 1933, heads the Institute of Medieval Canon Law in the School of Law at the University of California, Berkeley. The Institute, in cooperation with the Vatican Library and with the aid of a National Endowment for the Humanities research grant, is in the process of microfilming the Vatican collection and subjecting the handwritten manuscripts to intensive study and analysis. Only a handful of scholars knows how to read the manuscripts which contain lawyers' notes, obscure references, and are frequently of anonymous authorship. Thus it is difficult and time-consuming work. About half of the collection has been microfilmed to date and is being studied. The analyses which result will be published.

The manuscripts of greatest interest, says Dr. Kuttner, were written by scholars at the University of Bologna School of Law starting in the 12th century. It was here, he believes, that the transformation of Roman law into canon law began. Roman law was codified in the 6th century under Emperor Justinian, "but much of Roman law was forgotten until it was copied in the law school at Bologna," Kuttner said. The teachers at Bologna then proceeded to modify ecclesiastical laws, borrowing from Roman principles and doctrines, and, where appropriate, developing new legal principles.

For example, canonical law adopted the Roman procedures for legal hearings to put structure in what previously had been rather formless ecclesiastical proceedings. On the other hand, Roman law had no way of bringing to court actions concerning contracts which had not been written down or witnessed. The writers of the canons took that a step beyond, establishing that the mere promise to perform between two persons is actionable.

Dr. Kuttner says English common law on corporations is patterned after laws governing corporate bodies of the church. Medieval scholars laid down the principles concerning corporate liability, as distinct from the liability of individual members of a corporation, in contractual matters and the corporation's right to acquire property. English civil law also adopted legal principles concerning wills and marriages that came from the canons and were employed in ecclesiastical courts.

"The organization of city councils, liabilities for contributions imposed by the Crown—all have precedents in canon law," Dr. Kuttner said. "The whole idea of consent to taxation was a concept that originated in canon law."

The seeds of constitutional law were sown by medieval lawyers when they wrestled with the Roman concept that the power of the emperor was absolute. They finally came up with an interpretation that the emperor's power was "absolute"—but only so long as it was exercised within the law. This principle was applied to the removal of popes who were found to be heretics by the Council of Bishops. The lawyers decided that in the event a pope was judged a heretic, he automatically ceased to be pope and the office be-

came vacant, allowing appointment of a new pope.

Dr. Kuttner regards the work of medieval canon writers as a remarkable achievement. "They found in the Roman *Corpus iuris* the intellectual tools for dealing with the legal and ecclesiastical affairs of their own time; they built a 'common' European law by amalgamating the 'two laws' with regional or local statute and custom," he said. The result was a supernational order of rules and doctrines which became the foundation for today's western legal systems. □

History Through a Political Looking-Glass

Historians Stanley Elkins of Smith College and Eric McKitrick of Columbia University believe that each generation should rewrite its history. Their contribution to the kaleidoscope of history is *The Age of Washington and Jefferson,* a fresh look at the early years of the American Republic and at the people who guided its creation. Their perspective is that of a generation which was divided politically by the Vietnam war in much the way they say this nation was split by political differences in the period from 1789 to 1816.

Until about 20 years ago, Charles Beard's economic approach to the era was almost unassailable. *The Age of Washington and Jefferson* is a major attempt to enunciate an alternative view: that politics, rather than economics, determined the development of the early American culture. The period covered will conclude with the end of the War of 1812, when the intensity of political concerns had diminished. By then, America felt secure from foreign intervention, and the new nation could afford to become fully absorbed with questions of economic development. The book, supported in part by an NEH research grant, will be the result of a decade of work when it is published by the Oxford University Press in about 2 years.

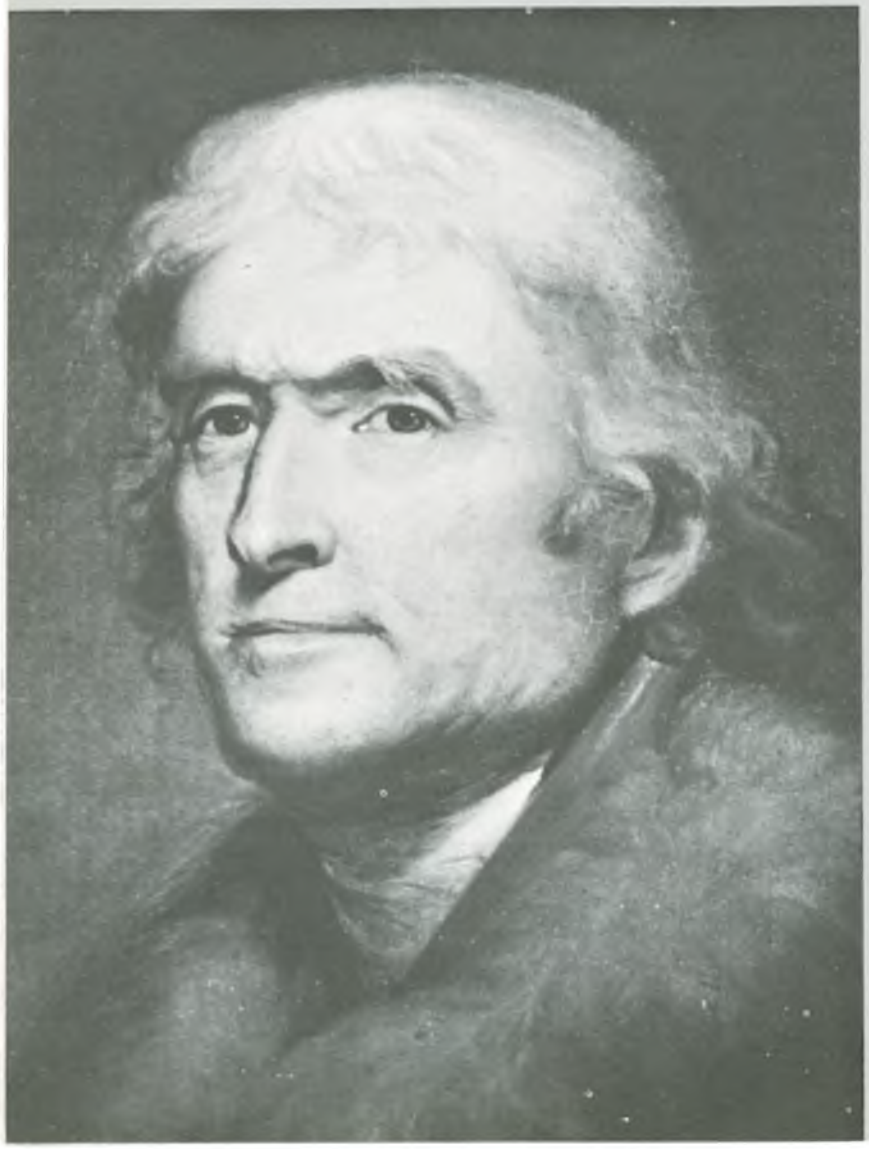
The two professors characterize the founders of the Republic as a combination of intellectual and politician so imaginative that they could successfully create a genuinely new form of government. At the same time, political enmity was magnified by what Dr. Elkins calls a "new-nation mentality"—the certainty that every precedent they set could have rippling consequences.

Hamilton wanted a strong federal government and a commercial, industrial, and urban nation with financial ties to England. To Jefferson and Madison, who wanted America to avoid the corruption of commerce and industry, Hamilton was dangerous. Says Dr. Elkins, who speaks in the present tense about the men who established the Republic, "Their problem is that none of them know how to handle party politics. Since 18th century attitudes hold that party politics is bad, they can't admit they're engaged in it. Still, they are a community with a lot of political experience, they are committed to the idea of the nation, and when they get to crisis situations, both parties back away from the possibility of a political clash."

George Washington somehow managed to appear to be above party politics. It is no accident that he was almost all the things a president should be, for, the authors believe, the presidency was modeled after him. It was Washington's performance as commander of the Continental Army that reconciled the 13 states to a centralized authority with a powerful enough figure at its fore to act on behalf of the entire nation.

That authority was to be exercised in a rural capital close to Jefferson's beloved Virginia. The choice of location would have enduring consequences. For, to isolate the political capital from the economic, cultural, and intellectual centers of the nation would, the authors write, cause Washington, D.C. "not to rouse itself from its boggy squalor for the next hundred years . . . [and] few places in Christendom or elsewhere would be so fervently reviled or broadly derided as Washington on the Potomac." And since commercial and foreign trade interests remained unrepresented in the capital in those early years, foreign policy decisions were made in political isolation, leading, in the opinion of the two historians, to the War of 1812. This, another of their findings, will undoubtedly be controversial and lead to debate among their colleagues. And another generation of historians will no doubt re-examine the subject and perhaps rewrite some part of the Elkins-McKitrick record. □

Portrait of Thomas Jefferson painted from life by Rembrandt Peale, 1805



Courtesy The Thomas Jefferson Memorial Foundation

The American Issues Forum, developed under the auspices of the National Endowment for the Humanities and cosponsored by the American Revolution Bicentennial Administration, consists of a calendar of 9 monthly and 36 weekly issues that have been fundamental to American society throughout our history. The calendar topics are designed for serious and coordinated nationwide exploration during the Bicentennial year beginning in September 1975. Along with the official press announcement to be made in April, many other Forum activities of national importance are now well underway.

Adult Education Association

The Adult Education Association of the U.S.A. (AEA) is initiating several thousand Community Leaders Workshops during April and May. Each workshop is bringing together 10 to 12 leaders in the local community —church leaders, educators, publishers, broadcasters, librarians, service club leaders, and corporate and labor leaders—to introduce them to the Forum and to invite them to develop educational activities in their own organizations using the Forum topics. The AEA has developed a Workshop Kit for those interested in convening a workshop in their communities and has enlisted its own membership, as well as members of other interested national organizations, to organize the individual workshops. A film introducing the American Issues Forum is being produced by Screen News Digest/Hearst Metrotone News and will be available for these workshops and to any other interested community organizations. It is expected that the AEA workshops will generate thousands of local Forum programs across the nation.

Additional information may be obtained through AEA as follows:

Charles Wood, Executive Director
Adult Education Association of the U.S.A.
810 18th Street, Northwest
Washington, D. C. 20006
Telephone (202) 347-9574

Bicentennial Youth Debates

One Endowment-sponsored program which is already planning to offer an ongoing and diversified schedule of activities in coordination with the American Issues Forum is the Bicentennial Youth Debates (BYD). This project is administered by the Speech Communication Association and is designed to encourage persons of high school and college age to participate in a year-long exploration of and dialogue on American history and values. The topics chosen for debate and discussion, and their sequence, will be coordinated with the American Issues Forum calendar.

The program will officially run from September 1975 through June 1976 and will consist of both competition and civic activities. Students will be debating in their schools and communities, in state houses and at battle sites, before civic groups and legislators throughout the United States. After initial competition in schools and institutions, winners will then advance through district, state and regional contests, into a final national conference. Participants will be judged on their substantive historical research and the quality of their presentations.

The emphasis on local contests in combination with local community participation will allow the BYD to involve not only every young American but their families and communities as well, in public debate on historically significant, humanistic American concerns. For further information about BYD, write or call:

Dr. Richard Huseman, Director
Bicentennial Youth Debates
1625 Massachusetts Avenue, Northwest
Washington, D. C. 20036
Telephone (202) 265-1070

Humanities Seminars for Lawyers

In its efforts to bring the humanities into a more central place in American life, NEH inaugurated in June 1974 a new program for members of professions outside of teaching. One part of the Profession Program's activities—seminars for medical practitioners—was described in the last issue of *Humanities*. Another important area receiving NEH attention through the program is the legal profession.

While occupying a special, perhaps favored, role in American society dating back to the colonial period, the profession of law, with its emphasis on rigorous analysis and precise questions about statutes, arguments and decisions, often appears to make other questions about the values, traditions and goals of a humane society seem less relevant or less important; the law gives its practitioners little opportunity to stand back and examine the historical, philosophical, and social dimensions of the profession. To help lawyers put their work into a broader perspective, NEH-sponsored seminars are bringing together distinguished

humanists and lawyers for a month of full-time reading and discussion.

One such seminar was recently conducted by Charles Frankel, Professor of Philosophy and Public Affairs at Columbia University and a member of both the Philosophy and Law School Faculties. Dr. Frankel developed his seminar program around the theme of Law, Order and Liberty, focusing on one of the central and constant questions faced by the law—the adjustment of individual liberty to the social need for limits, cooperation and predictability. Seminar participants read and discussed selected works in philosophy and literature as they relate to the perennial practical problems confronted by lawyers. These included the writings of philosophical jurists like Holmes, Cardozo, and Learned Hand, and of Sophocles, Plato, J. S. Mill, Bernard Shaw, Herman Melville, Dostoyevsky, and Camus.

One of the participants in Professor Frankel's seminar last summer was Helen Frye, a judge in the Second Judicial Circuit for the State of Oregon. As one of six circuit court judges in a court of general jurisdiction, she must rule on a wide array of cases ranging from declaratory judgment actions to the dissolution of marriage to murder. Appointed to office in 1971 by then-Governor McCall, she was subsequently elected to a 6-year term of office in 1972. Prior to joining the bench, she had enjoyed several very successful years as an attorney in general practice in the Eugene, Oregon area. Before entering the legal profession, she had been a junior and senior high school teacher in Eugene for 6 years. She holds an M.A. in English literature in addition to her J.D., and is the mother of three children.

Judge Frye, in commenting on her reaction to the seminar, said that judges tend to view life and the law with a certain rigidity. "The philosophy and law seminar gave me the opportunity to view life and the law from different perspectives. Civil disobedience gained a measure of respectability. The revolutionary origins of our country took on new significance. If this seminar did not in fact change my basic political philosophy, it did instill respect for other points of view. I came away with a certain mellowness which was refreshingly new to me as a judge." Judge Frye concluded that the seminar had in fact fulfilled one of the Endowment's principal goals for this program, i.e., adding to the intellectual foundation and background on which she draws in her work as a judge. □

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