1979

Program from the Twenty-eighth Thomas M. Cooley Lectures

University of Michigan Law School

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The Thomas M. Cooley Lectures

Twenty-eighth Series

THE BURGER COURT AND FREE EXPRESSION

ROBERT H. BORK
Professor of Law
Yale Law School

NORMAN DORSEN
Professor of Law
New York University School of Law

4:00 P.M.
February 5, 6, and 7, 1979

Hutchins Hall, Room 120 — Ann Arbor, Michigan
Thomás M. Cooley was one of the leading figures in nineteenth-century American law and legal scholarship. He was a member of the first law faculty at The University of Michigan, which was assembled in 1859, and was appointed Dean of the Law Department in 1871. From 1864 to 1885 judicial service as a member of the Supreme Court of Michigan was added to his academic duties. Cooley is perhaps most frequently remembered today for his remarkably influential treatises, especially his works on Torts and Constitutional Limitations. In 1887 he was appointed first Chairman of the Interstate Commerce Commission by President Grover Cleveland.

The Thomas M. Cooley Lectureship was established by the faculty of The University of Michigan Law School in order to stimulate research and to communicate its results in the form of public lectures. The Lectureship is supported by the William W. Cook Endowment for Legal Research.

**THE LECTURERS**

Robert H. Bork received his B.A. and J.D. degrees from the University of Chicago. Following graduation from law school in 1953, he practiced law in Chicago until 1962, when he joined the faculty of the Yale Law School. From 1973 to 1977, Mr. Bork served as Solicitor General of the United States and, during 1973–74, as Acting Attorney General. He returned to Yale in 1977 as Chancellor Kent Professor of Law.

Professor Bork's principal scholarly work has been in the field of antitrust law. His frequent contributions to professional and other periodicals and his recent book, *The Antitrust Paradox*, have earned for him a reputation as one of the dominant figures in the field. During the past decade, he has increasingly turned his attention to questions of constitutional law. In his constitutional writing, as in his work in antitrust, Bork has dealt extensively with one of the enduring problems of American public law, the proper role of courts in a democracy.

Norman Dorsen is a graduate of Columbia College and the Harvard Law School. His first professional exposure to civil liberties came while he was an assistant to Joseph Welch in the Army-McCarthy hearings during his first year after law school. He subsequently served as a law clerk to Justice John Marshall Harlan of the U.S. Supreme Court, and then practiced law privately for two years in New York City.

Since 1961 Professor Dorsen has been a member of the faculty at New York University School of Law, where he teaches Constitutional Law and Legal Process. He has written or edited many books on a broad range of legal topics, and has taught and lectured widely. While General Counsel to the American Civil Liberties Union, he argued many cases before the U.S. Supreme Court, including those which won for juveniles the right to due process in delinquency hearings, established constitutional rights of illegitimate children, and outlawed certain kinds of discrimination against the poor in criminal proceedings. From 1973–75 he was President of the Society of American Law Teachers and at present is Chairman of the Board of Directors of the ACLU.
THE BURGER COURT AND FREE EXPRESSION

Lecture I

Monday, February 5

ROBERT H. BORK
THE INDIVIDUAL, THE STATE, AND THE FIRST AMENDMENT

Lecture II

Tuesday, February 6

NORMAN DORSEN
THE BURGER COURT AND THE FIRST AMENDMENT: TOWARD A MAXIMUM PROTECTION THEORY

Panel Discussion

Wednesday, February 7

The Lecturers will be joined by:
JOEL GORA
LEE C. BOLLINGER
PREVIOUS THOMAS M. COOLEY LECTURES

1947: The Constitution and Socio-Economic Change
PROFESSOR HENRY ROTTSCAEFER, University of Minnesota

1948: Our Legal System and How It Operates
PROFESSOR BURKE SHARTEL, The University of Michigan

1949: Some Problems of Equity
PROFESSOR ZECHARIAH CHAFFEE, JR., Harvard University

1950: Administrative Discretion and Its Control
DEAN E. BLYTHE STASON, The University of Michigan

1952: Perspective in Conflicts Law
PROFESSOR HESSEL E. YNTema, The University of Michigan

1953: Selected Topics on the Law of Torts
DEAN WILLIAM LLOYD PROSSER, University of California

1954: A Common Lawyer Looks at the Civil Law
PROFESSOR FREDERICK HENRY LAWSON, University of Oxford

1955: Public Policy and the Dead Hand
PROFESSOR LEWIS M. SIMES, The University of Michigan

1956: Frontiers of Constitutional Liberty
PROFESSOR PAUL G. KAUPER, The University of Michigan

1958: The Use of International Law—A Re-examination
PROFESSOR PHILIP C. JESSUP, Columbia University

1959: Judges: Oracles of the Law
PROFESSOR JOHN P. DAWSON, Harvard University

1959: Law and Processes of Social Change in United States History
PROFESSOR JAMES WILLARD HURST, University of Wisconsin

1961: Towards Administrative Justice
PROFESSOR H. W. R. WADE, Oxford University

1962: Criminal Law Reform in England
DEAN D. SEABORNE DAVIES, University of Liverpool

1964: Policy, Justice and Principle in the Choice-of-Law Process
PROFESSOR DAVID F. CAVERS, Harvard Law School

1966: Politics and the Independent Regulatory Commission
PROFESSOR WILLIAM L. CARY, Columbia University Law School

1967: Recent Developments in Contract Law
PROFESSOR OTTO KAHN-FREUND, Oxford University

1969: Politics, the Constitution, and the Warren Court
PROFESSOR PHILIP B. KURLAND, University of Chicago

1970: New Priorities in Criminal Justice
BERNARD BOTEIN, formerly Presiding Justice, Supreme Court of New York, Appellate Division

1970: The Reform of Civil Procedure
PROFESSOR MAURICE ROSENBERG, Columbia Law School
PROFESSOR BENJAMIN KAPLAN, Harvard Law School
PROFESSOR MAURO CAPPELLETI, University of Florence

1971: Regulating the Broadcaster
PROFESSOR LOUIS L. JAFFE, Harvard Law School

1973: Income Taxation and Political Rhetoric
PROFESSOR BORIS I. BITTKEr, Yale University

1974: The Future of Imprisonment
PROFESSOR NORVAL MORRIS, University of Chicago

1975: Biology, Ethics and Law: Can They Help Each Other?
PROFESSOR ROBERT S. MORISON, Cornell University

1975: The Emergence of an American Theory of Law
PROFESSOR STANLEY M. KATZ, University of Chicago
PROFESSOR MORTON J. HORWITZ, Harvard University
PROFESSOR WILLIAM E. NELSON, Yale University

1977: Judicial Review and the National Political Process
PROFESSOR JESSE H. CHOPER, University of California, Berkeley

1978: Science in the Courts
JUDGE HAROLD LEVENTHAL, U.S. District Court of Appeals, District of Columbia