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POST-WAR THINKING ABOUT THE RULE OF LAW

*"Man was born free yet he is everywhere in chains."
Rousseau*

*"Now this is the Law of the Jungle
As old and as true as the sky;
And the Wolf that shall keep it may prosper,
But the Wolf that shall break it must die.
For the strength of the Pack is the Wolf,
And the strength of the Wolf is the Pack —
Now these are the Laws of the Jungle,
And many and mighty are they;
But the head and the hoof of the Law,
And the haunch and the hump is — Obey!"
Kipling*

*"Justice enacted not these human laws
Nor did I deem that thou, a mortal man,
Could by breath annul and override
The immutable unwritten laws of Heaven."
Sophocles*

FOR centuries man has argued about the "Rule of Law" as the basis for organizing society without agreement as to meaning. Since World War II, with its great and powerful nuclear bomb, such discussion has taken on a more imperative tone. Particularly among lawyers is this increased tempo of talk to be encouraged. Thus "Post-War Thinking About the Rule of Law" was a timely topic of a lecture series held at the Law School of The University of Michigan as a part of its Special Summer School for Lawyers during the summer of 1960. The scope of the lecture series can best be indicated by the titles of the lectures as they were delivered:

The Rule of Law in Historical Perspective — Professor W. Burnett Harvey

The Rule of Law and the Judicial Process — Professor Luke K. Cooperrider

The Executive Department of Government and the Rule of Law — Professor Frank E. Cooper

The Supreme Court and the Rule of Law — Professor Paul G. Kauper

The International Rule of Law — Professor William W. Bishop

The Legislative Process and the Rule of Law — Professor Samuel D. Estep

The Challenge of the Rule of Law — Professor W. Burnett Harvey

The seven papers that follow are the words and thoughts of the Michigan Law School faculty members who delivered the lectures in this series. Each paper was written for oral presentation and was spoken to an audience. The reaction of those attending the lectures was so favorable that arrangements were made for their publication. In the audience at the time these papers were given were lawyers from many parts of the United States and many foreign countries. Many were attending a two-week study course on specific phases of private law. These lectures were designed to enrich the study program and to direct attention away from "bread and butter" thoughts to broader problems. The lectures do not call for specific action but they do challenge thoughtful lawyers to face problems related to the development of law and legal institutions. Inherent in the idea of the lecture series was the thought that all lawyers are, or should be, public servants to some degree and that the professional and public responsibility of lawyers should be sharpened. Consideration of basic notions pertaining to the development and operation of law and legal institutions, it was assumed, will make better lawyers. Within the scope of the topic, the lectures accomplish this purpose.

The excitement of those listening to the reading of these papers was evidence of the deep interest in the broad problems facing the profession and the public. This publication should aid many more persons to think constructively about the serious problems involved and to be more articulate interpreters of this greatest of all challenges of modern society, how to insure justice under law.

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