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Report to the Max Pam Trustees

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COMMENT AND CASE NOTES

THE LAW SCHOOL

The enrollment of The University of Chicago Law School for the Autumn Quarter, 1943, was forty-seven. Fifteen of the forty-seven were women. Twenty-five entered the School either in the Summer or Autumn quarters, 1943; more than one-third had made honors in college. Eleven of the regular members of the Faculty are expected to be in residence during the year. For the period of the war, the School intends to offer instruction in each of the four academic quarters. It is, therefore, possible to complete the Four-Year Program in three years and the Three-Year Program in two and one-fourth years.

REPORT TO THE MAX PAM TRUSTEES*

MAX RHEINSTEIN†

IN HIS first report¹ the present holder of the Max Pam Chair of Comparative Law pointed out that the comparative method may be applied to law in at least three different ways, viz., those of "functional comparison of legal rules and institutions," of "sociology of law," and of "structural morphology of law." In the periods covered by his earlier reports; the research and teaching activities of the present holder of the chair were centered around problems of functional comparison of rules and institutions of contemporary common law and civil law. During the last two years attention has been paid primarily to the sociological method of comparative law. In a course entitled "sociology of law," the comparative method has been applied to the purpose of determining the role played by law in human society in general, and of clarifying the methods which society has employed in various times and at various places for achieving those ends for which law has been developed; of these ends the principal one is conceived as being that of rendering social

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¹ 5 Univ. Chi. L. Rev. 615 (1938).

life orderly and predictable and thus making possible the growth of civilization. Since law, however, constitutes but one of the various techniques developed toward this end, it has been found necessary to determine those criteria by which law is distinguished from such other techniques as religion, ethics, and social etiquette and tradition. In this context law is then defined as that body of normative ideas which tell the determination officers (judges) of a politically organized society under what circumstances they are to order the enforcement officers (sheriffs, policemen, prison wardens, executioners, militia, army) of that society to apply physical force against an individual. The slow development of this institutional set-up through its preliminary stages in primitive and archaic society is being traced, culminating in an investigation into the techniques applied in various cultures, and especially in our own contemporary civilization, for the purpose of securing the observance of those normative ideas which constitute the law by the yielders of supreme political power (supreme court judges, chief executives, commanders-in-chief of armed forces). Finally, there are being opened up the problems of the forces by which the contents of the legal norms of a given society are being determined and of the ways and methods by which legal norms are being kept in harmony with fluctuating economic and political conditions and with changing religious and ethical convictions. The course has been open to students not only of the Law School, but also of other departments of the University. The presence of students of sociology, political science, history, education, social service, and divinity has been a stimulating influence; particularly valuable contributions were made by members of the staff of the Oriental Institute who participated in the course in pursuance of their research work in cuneiform laws.

Other courses taught by the holder of the chair during the last two academic years were: history of the Civil Law, conflict of laws, law of family relations, a seminar on transfer of family wealth, a course on modern political theories for students of political science, and a course on military law. The last named course was taught under the auspices of The University of Chicago's Institute of Military Studies. The purpose of this course has not been that of giving detailed instruction in the work of the department of the Judge-Advocate General of the Army or Navy. The intention was rather that of arousing among lawyers and among the educated public in general an interest in a sadly neglected field of law which is now playing a vital role in the lives of millions of Americans. Two articles, one on "Military Justice" and the other on "The Armed Forces and the Civilian Population," have grown out of this lecture-