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A Note from the Editor

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A NOTE FROM THE EDITOR

Now that volume two, number two, of the *Buffalo Law Review* has at long last come to press, the inclination is strong to indulge recollections of the way we came. This impulse we, of course, sternly suppress. The editors of a review which presumes to search the contemporary scene for the legal signs of the times know that the scholar's pleasures must always be three parts pain. They know that for all the occasional triumphs of learning over the restrictions of the budget, for all the urbane good humor with which a Junior once in a while receives the usual drastic surgery upon his rhetoric, the process of bringing the *Review* to life is attended by many perplexities. For some of them it is not likely that any solution will ever be contrived. So much granted, it still must be written that the camaraderie of the editorial room proved a solvent for most of the problems that confronted us. Exploding on many occasions in an intellectual *joie de vivre* truly splendid, it produced its own sort of wisdom, a wisdom that at all times kept itself proudly apart from the sedate wisdom of the law. It sticks agreeably in the mind of a retiring editor. Next year's staff will bring to their task, in addition to other high competencies, a generous capacity for this extraordinary sort of knowledge which is without precise name or substitute.

I should mention here that *Caltex (Philippines), Inc. v. United States*, 100 F. Supp. 970 (Ct. Cl. 1951), noted, 1 BFLR L. REV. 310, was reversed in 73 S. Ct. 200 (1952). The Court of Claims had held compensable under the Fifth Amendment the destruction of plaintiff's property by the United States Army in order to prevent its seizure and use by enemy forces. The note concluded that the case presented only a non-compensable loss attributable to the fortunes of war, and this was the position taken by the Supreme Court.

The subject of Military Law is beginning to attract the scholarly attention its increased importance warrants. Now in his sixth year with the University of Buffalo Law School, where he teaches Taxation and Estate Planning, Professor Albert Mugel has led a varied career as soldier, lawyer, and scholar. He served with the Armored Command as trial judge advocate, and is a combat veteran of World War II and the Korean conflict. In his article *Military Justice, Command, and the Field Soldier*, Professor Mugel extends to the Uniform Code of Military Justice a critical treatment he has previously reserved for the Regulations of the Commissioner of Internal Revenue. He brings to bear on his analysis of the workings of the new Code neither blind praise nor unqualified criticism; rather is his article the product of careful study and practical experience: it is a blending of viewpoints which should create new interest in a subject too long neglected.

BUFFALO LAW REVIEW

Mr. Manly Fleischmann, one of the most distinguished alumni of the Buffalo Law School, surely is as reliable a guide as any to direct the uncertain and weary lawyer through the "Washington Jungle." Mr. Fleischmann has served in the national capital in a variety of capacities but chiefly as Assistant General Counsel to the War Production Board, General Counsel to the National Production Authority, Director of the N.P.A., and most recently as Defense Production Administrator. Mr. Fleischmann has also lectured on Insurance at the University of Buffalo Law School and now is engaged in the private practice of law in Buffalo and New York City. In his essay, which extends aid to the bewildered "out-of-town lawyer," Mr. Fleischmann exhibits the insight and good humor for which he is known.

The *Review* is publishing in this issue a debate which may be the precursor of many to come. The topic chosen was *The Meaning of the Establishment Clause*, which our contributors are seeking in the light of the time in which it was ratified. Taking the position that the First Amendment to the Federal Constitution forbids non-preferential government aid to religion is Dr. Leo Pfeffer, who is associated with the American Jewish Congress and is Assistant Director of its Commission on Law and Social Action. Formerly an editor of several legal publications, Dr. Pfeffer currently lectures at the New School of Social Research. Dr. Pfeffer is also the author of notable briefs submitted to the United States Supreme Court in *McCullum v. Board of Education*, 333 U. S. 203 (1948), and other church-state cases. To his further credit is the forthcoming work, *Church, State and Freedom*.

Dr. James M. O'Neill (another past editor, it may be observed) studied law at Harvard and the University of Chicago. Having been Chairman of the Department of Speech at Brooklyn College, Professor O'Neill recently concluded his teaching career to devote himself to lecturing and writing. Among his dozen books are *Catholicism and American Freedom* and *Religion and Education under the Constitution*. In the debate, Dr. O'Neill contends that the "establishment of religion" clause of the First Amendment does not forbid, and was not intended to forbid, non-preferential assistance by government to religion. The two articles, with their authors' rebuttals, will together make up an important document in our constitutional history.