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# DE PAUL LAW REVIEW

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### THE DEATH OF E PLURIBUS UNUM ..... 651

By ROBERT EMMETT BURNS

Professor Burns views recent constitutional developments, such as the incorporation of the Bill of Rights into state court procedures ("new equal protection"), as minor constructional aspects of a document already transformed in a ten-year revolution into a rootless, flexible mandate containing precious few defined fundamentals, save the judges themselves and the constitutional words "due process of law." The article explains how, in 1890 at the hands of the worst Supreme Court in American history, the phrase "due process" became first severed from state laws and state court procedures in 14th amendment cases. At first, it was to gain federal jurisdiction in order to review the reasonableness of state railroad regulation, later to restrict undefined fundamentals and private property from state and federal legislative due process and a "new deal," and most recently to refurbish trials, procedures, and systems of the state courts with due process and selected clauses from the Bill of Rights. Professor Burns contends that in *per legem terram* lies truth artfully forgotten in the first due process decision, the *Dred Scott* case, supposedly overruled by the Civil War Amendments. His contention is that a "new" nonracial 14th amendment unrelated to the purposes of the amendments, to preserve pre-Civil War E Pluribus Unum, marked at the turn of the Century the death of apportioned sovereignty drafted to preserve the union and symbolized in the phrase "E PLURIBUS UNUM." A short constitutional amendment is proposed to restore the awesome prerogatives implicit to 1870 Federalism. This amendment would disincorporate the Bill of Rights in the state courts and also in the Supreme Court constitutional jurisdiction to review the federal Bill of Rights which had been made applicable to state governments by due process, including the first clause made applicable in 1897, "nor shall private property be taken for a public use without just compensation" (Amendment V) (1791) (1868) (1897). *The Death of E Pluribus Unum* should leave something for either liberals or conservatives to think about.

### CONFLICT OF LAWS TRENDS—TORTS ..... 684

By MARVIN V. AUSUBEL

Conflict of laws, as it has existed, and to a certain degree still does, represents to the trial attorney and the court an area of jurispru-

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dence continually undergoing a drastic reformation. Thus, many jurisdictions have made positive advances toward dismantling the time-honored, choice-of-law rule for standards more attuned to each state's own policy interests. In this regard, the current trend appears to be the adoption of the "dominant interest" approach as the criterion for determining the law to be applied. The author casts this trend into the light of current case law with the avowed intent of bringing to the fore its attendant ramifications and in so doing challenging both the attorney and the court to find the ultimate solution.

## COLLAPSIBLE SPECIALISTS .....

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By WILLARD H. PEDRICK

As general dissatisfaction with the system is demonstrated by riots in the cities and rebellion on the campus, it is apparent that our society has not expended the effort requisite to the production of leaders necessary to assist in the process of innovation, adjustment, and accommodation of the system. The author hypothesizes that specialization is the reason for the eclipse of the attorney in the leadership cadre. It seems that as lawyers got better and better at their respective specialties, they are valued less and less in matters of general importance to society. Although the author admits that specialization in the law will continue, he recommends that attorneys keep their general capabilities sharp in order to relate to the public interest and remain flexible as one specialty is succeeded by another.

## DEAN PEDRICK, LEGAL SPECIALIZATION, AND LIBERAL EDUCATION .....

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By IRVING E. FASAN

In reply to Dean Pedrick's *Collapsible Specialists*, the author feels that the problem with the legal profession today is not too much specialization, but too little. Because attorneys today already practice under an informal system of specialization, the Bar could only benefit by organizing a system of legal specialization. Although he feels that the plea for "generalist" training is a valid one, the flaw in Dean Pedrick's approach is that he seeks it at the wrong time and at the wrong place. A liberal education will produce educated human beings, but at this point such an education is too little and too late. In addition, Dean Pedrick's "generalist" skills seem to be only techniques rather than positive commitments to knowledge and truth. He talked of "analytical approaches, vocabulary, skepticism, advocacy, and process". Such "generalist" training will be foolish if it accepts, as it seems to, the present posture of much of our intellectual life, thus rejecting truth and goodness and insisting only upon "analytical approaches, vocabulary, skepticism, and process".

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*By* JAMES A. GAZELL

The role of the judiciary in the administration of justice is a matter which is most prominent in the minds of today's legal community. Though much has been said concerning the serious deficiencies in present judicial organization, particularly when operating at the state court level, very little has been done to provide an in-depth study of judicial leadership competition between the formal line authorities and their professional staff aides. Professor Gazell, after defining formal judicial leadership with its various functions, problems, and power, examines the present status of the Illinois judicial organization, therein revealing an inter-related administrative-management struggle which may be posited as one of the focal points upon which to base the resolution of the problems existing in the inefficient state judicial system.

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