

# OHIO STATE LAW JOURNAL

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## Foreword

WILLIAM H. ROSE\*

On the afternoon of February 25, 1950, the College of Law, in cooperation with the Continuing Education Committee of our Law Alumni Association, conducted a symposium on the subject, Ethical Values and the Law in Action. The speakers were Dr. Felix S. Cohen, attorney and legal philosopher of Washington, D. C., Dr. Brendan F. Brown, Dean of the School of Law of The Catholic University of America, and Dr. Robert S. Hartman of the Philosophy Department of The Ohio State University. For the suggestion that a philosophical topic be chosen for the symposium we are indebted to Mr. Robert M. Draper, the able and helpful chairman of the Alumni Committee. For the success of the program the Law School and the Committee are deeply indebted to each of the three speakers.

The selection of ethical values as the basis for discussion caused no difficulty. More troublesome was the matter of arrangement by which it could be assured beforehand that each speaker would focus his application of ethical views upon the same legal problems, and in such a manner as to illustrate possible differences in consequences. The device used was to choose four groups of cases in different fields of legal relations towards which each speaker should direct his critical analysis. Dean Brown and Dr. Cohen, in Washington, collaborated in the selection. The topic subdivisions and cases, as they appeared in the program, are reproduced below.

The speakers were chosen for their divergent philosophical views. To the cases Dr. Cohen brought the trenchant analysis of positive idealism, Dean Brown, the age-tested thesis of scholasticism, and Dr. Hartman, the ethical views of logical analysis. The discussion from the floor which followed the formal debate was stimulating and sprightly. The Law Journal hopes by publishing the revised papers to share with its readers some of the stimulation of the debate.

Publication of the symposium has also permitted us to obtain

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\*Professor of Law, College of Law, The Ohio State University.

an appraisal of its philosophical viewpoints by an additional philosopher. This need has been ably supplied by Dr. Iredell Jenkins, Chairman of the Department of Philosophy, University of Alabama, under the title, *The Role of Ethical Values in Legal Decisions*.

The fifth paper, by Dr. Homer W. Smith, Professor of Physiology, New York University College of Medicine, has no direct relation to the symposium. It was one of three papers delivered in December, 1949, at the convention of the Association of American Law Schools, held at Chicago, Illinois, during a Round Table discussion on *The Philosophical Basis of Value Judgments*. Because of its able presentation of a materialist's views upon the subject of ethics, the Law Journal feels privileged to include it as a supplement to the symposium.

### CASES TO BE CONSIDERED

Relation of moral considerations to law:

*Oleff v. Hodapp*, 129 Ohio St. 432, 195 N.E. 838 (1935) — inheritance by a murderer;  
*Everet v. Williams* (1725), 9 Law Quarterly Review 197 (1893) — The Highwayman's Case, petition for partnership accounting.

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Human rights in international law:

*Northwestern Bands of Shoshone Indians v. United States*, 324 U.S. 335 (1945) — title to Indian lands.

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Changing emphasis of constitutional restraints on property rights and civil liberties:

*Adkins v. Children's Hospital*, 261 U.S. 525 (1923);  
*West Coast Hotel Co. v. Parrish*, 300 U.S. 379 (1937) — minimum wages for women and children.

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Flag salute cases:

*Minersville School District v. Gobitis*, 310 U.S. 586 (1940);  
*West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943).