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## Robert Maynard Hutchins, 1899-1977

Herbert Brownell†

Robert Maynard Hutchins, who died at Santa Barbara, California, on May 15, 1977, was Dean of the Yale Law School in 1928-29. He had served as Secretary of Yale University from 1923 to 1927. Upon his graduation from the Yale Law School in 1925, he joined the Law School's faculty as a Lecturer, a position he held from 1925 to 1927. He was Acting Dean of the Law School during the academic year 1927-28. Dean Hutchins was thirty years old when he left the Law School to become President and later Chancellor of the University of Chicago.

Dean Hutchins' active leadership in the field of legal education during this brief span of years was notable for the innovations he sponsored in the Law School's curriculum and in particular for the establishment of the Institute of Human Relations. His erudition, his inquisitive mind, and his theories of proper relationships among law, economics, political science, and psychology left an indelible imprint upon the Yale Law School of his time. His initiatives, moreover, led to fruitful interdisciplinary research programs that have had lasting effects upon legal education in this country.

The main endeavors of Dean Hutchins' career, and his publicly known achievements, came in later years while he was a founder, Chief Executive Officer, and President of the Center for the Study of Democratic Institutions, based in California. But many of the ingredients of his brilliant intellectual success first came to light during his deanship at the Yale Law School. He himself believed that his chief contribution as Dean of the Law School was the establishment of the Yale Institute of Human Relations.<sup>1</sup> The purpose of the In-

† Member, New York Bar; Attorney General of the United States, 1953-1957. The author was an Editor-in-Chief of the *Yale Law Journal* during Robert Maynard Hutchins' stay at the Yale Law School.

1. R. Hutchins, Report of the Dean 5 (1929).

stitute, from the standpoint of the legal academics involved, was to place law in proper perspective among the social sciences by studying it in actual day-to-day operation. This method would take the study of law outside the pronouncements of appellate courts. As part of this program, several members of the Law School faculty affiliated themselves with the Institute, and representatives of the Yale Departments of Economics, Sociology, and Government likewise participated in the Institute's educational program. Among the first projects of the Institute were the study of family factors in juvenile delinquency and the study of the procedural, psychological, and sociological aspects of crime.<sup>2</sup>

Dean Hutchins' special interest in the activities of the Institute is reflected in two of his articles, which were published in the *Yale Law Journal*. One, published in 1928 and coauthored by Donald Slesinger, was entitled *Some Observations on the Law of Evidence—The Competency of Witnesses*.<sup>3</sup> The article concludes with a typically confident prediction regarding the integration of law and the social sciences:

We find therefore that under the present rules [regarding the competency of witnesses], the trial judge often needlessly consumes time at the trial, the litigants needlessly consume time and money in appealing, and the appellate courts needlessly consume time in reversing and remanding, after writing protracted opinions about value abstractions to justify their action.

All these difficulties would be eliminated by the use of psychological tests to determine competency . . . .<sup>4</sup>

The other Hutchins article in the *Journal* is entitled *Some Observations on the Law of Evidence—State of Mind to Prove an Act*,<sup>5</sup> also coauthored with Donald Slesinger. The article further illustrates Hutchins' research interests:

It is clear that something which lawyers call state of mind, the very existence of which is denied by many respectable psychologists, is regarded as an integral part of the law . . . . The courts do not attempt to define it; the text-writers rarely [do] . . . . Our problem now is to ascertain to what psychological picture these legal assumptions correspond and whether the two disciplines cast any illumination upon each other.<sup>6</sup>

2. *Id.* at 5-6.

3. Hutchins & Slesinger, *Some Observations on the Law of Evidence—The Competency of Witnesses*, 37 *YALE L.J.* 1017 (1928).

4. *Id.* at 1027.

5. Hutchins & Slesinger, *Some Observations on the Law of Evidence—State of Mind to Prove an Act*, 38 *YALE L.J.* 283 (1929).

6. *Id.* at 291.

Dean Hutchins was remarkably successful in strengthening the faculty of the Yale Law School. Aided by a revolt of Realists on the faculty of the Columbia Law School in the late 1920s, Dean Hutchins was instrumental in securing the transfer of Underhill Moore and William O. Douglas to the Yale Law faculty. Dean Hutchins also recruited an impressive array of visiting professors: Morris Cohen of the Department of Philosophy of the College of the City of New York, who offered a course in jurisprudence; Harold J. Laski of the University of London, who taught a course in political and legal theory; and Robert S. Foster of the Harvard Law School, who lectured on insurance law.

In the classroom, Hutchins was popular and challenging. In the 1925-26 academic year, as Lecturer, he taught Public Service Law, using Burdick's *Cases on the Law of Public Service*,<sup>7</sup> and Trade Regulation, using Oliphant's *Cases on Trade Regulation*.<sup>8</sup> In the 1926-27 academic year, he taught Procedure II, using Hinton's *Cases on the Law of Code Pleading*,<sup>9</sup> and continued his course in Public Service Law. In the 1927-28 academic year, while he was Acting Dean, he taught a course in Evidence, using Hinton's *Cases on the Law of Evidence*,<sup>10</sup> and he continued this course the following year when he was Dean and Professor.

Dean Hutchins' magnetic personality and intense interest in broadening legal education resulted in significant additions to the endowment funds of the Law School. During this time the Estate of John W. Sterling gave the University a substantial endowment for the use of the Law School, one-half of which was for the Sterling Chair to be occupied by Professor Charles E. Clark and the other half for additional Sterling fellowships.<sup>11</sup> In view of the current cost of law school education, it is interesting to note the following comment that appears in Hutchins' annual report as Dean:

The new Sterling Chair will substantially reduce the present deficit, which has been growing rapidly because of honors courses and the additions to the staff and to the library that they have made necessary. The increase of the tuition to \$400 will tend in the same direction. Each student now costs almost \$1,000. There is no good reason why the tuition charge should not eventually approximate this figure, providing adequate scholarships can be established.<sup>12</sup>

7. C. BURDICK, *CASES ON THE LAW OF PUBLIC SERVICE* (2d ed. 1924).

8. H. OLIPHANT, *CASES ON TRADE REGULATION* (1923).

9. E. HINTON, *CASES ON THE LAW OF CODE PLEADING* (2d ed. 1922).

10. E. HINTON, *CASES ON THE LAW OF EVIDENCE* (1919).

11. R. Hutchins, *supra* note 1, at 6.

12. *Id.*

Dean Hutchins' meteor-like rise to Dean of the Yale Law School was made possible and was nurtured by the unusual ferment in the intellectual leadership of the school, sometimes referred to as the Realist Movement, which had developed under the deanship of Thomas W. Swan. In the years before Hutchins' appointment as Dean, the early lead in this movement at the Law School was taken by figures such as Arthur L. Corbin, Walter Wheeler Cook, and Wesley N. Hohfeld. Their lines of thought were set forth in a Comment in the *Yale Law Journal*:

The first of these [lines of thought] is that the rules of human action that we know as law are constantly changing, that no system of human justice is eternal, that law forms but a part of our ever-changing social *mores*, and that it is the function of lawyers, of jurists and of law schools to cause the statement and application of our legal rules to be in harmony with the *mores* of the present instead of those of an outgrown past. The second matter upon which emphasis has been placed . . . has been the necessity of a more exact terminology leading to a more accurate legal analysis.<sup>13</sup>

Over and over again in classroom instruction, the theme was sounded that the "Yale system" was formulated in reaction to the traditional case method of instruction used at the Harvard Law School, in which, it was alleged, too much importance was attributed to general legal principles developed from appellate cases and not enough study was given to the facts of each case in terms of the conditions and values of contemporary society. As noted above, Dean Hutchins' particular contribution was to stress the interrelationship of law and other social sciences. What was not apparent at the time Dean Hutchins left the Law School, however, was that the movement toward a jurisprudence rooted in the social sciences tended to emphasize faculty research, on an individual basis, at the expense of teaching excellence. Yet there is no doubt that the writings and research activities of the Law School faculty during this period had a lasting effect upon the methods of teaching law throughout the United States. This phase of the Law School's history came to a close in the 1930s, during the Depression years, when the funds for legal research from private sources dried up and the attention of many legal educators turned toward political action as part of the New Deal movement in Washington.

13. Comment, *Social Mores, Legal Analysis, and the Journal*, 29 YALE L.J. 83, 83-84 (1919).

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Dean Hutchins brought to the Yale Law School a unique brand of liberal humanism, a spirit of reform in law teaching, and an affinity for empirical legal research. When he left law teaching, he left with the respect and admiration of the group of giants in legal education who constituted the faculty of the Yale Law School during those years. He also departed with the friendship and admiration of the students who were both entertained and stimulated by his unorthodox teaching methods and by his ingrained belief that the law, when appropriately integrated with the other social sciences, would point the way toward major improvements in human behavior.