

## Second Triennial Coif Award to Grant Gilmore

*The following remarks were made by Herbert L. Packer '49, professor of law and vice provost for academic planning at Stanford University, at the Association of American Law Schools luncheon in the Grand Ballroom of the Sheraton-Cadillac Hotel in Detroit, December 29, 1967.*

Following as we did in the footsteps of the first Triennial Coif Award Committee, we found our task delineated, both formally and substantively. Formally, it was our charge, as it was theirs, to recommend an award to the author or authors of "an outstanding legal publication that evidences creative talent of the highest order." Our predecessors gave substantive content to that charge through the award to our lamented friend, Brainerd Currie. They thereby set a standard for this award that made the task for the second triennium both easier and harder than it might otherwise have been: easier because it enabled us at once to discard the merely meritorious, the merely competent; harder because of the constant reminder that the standard we were to apply was in fact as well as in form an exacting one.

We read much, learned much, admired much. In the end, though, there was only a handful of truly exceptional works. Had the salutary tradition of a single award not been so happily set by the first Triennial Award, we might with good conscience have nominated three or four works to share the award. But we chose to make a single choice.

In a moment, I shall attempt to give reasons of record for voting the award as we did. First, however, a non-reason, off the record. At the time of the first award, members of the faculty of an obscure midwest law school were heard

to complain that they missed their share of the reflected glory because Brainerd Currie had moved to another school before he received the award for work which had in the main been done at their school. Today we are making it up to those fellows. They will share in the glory of an award to a colleague who wrote his book at another school, before he joined them. Whether this gives the equally obscure eastern law school, which he left, any sort of lien on the next Triennial Coif Award would be ultra vires for me to say. Let it suffice that we voted the award to Grant Gilmore, for his *Security Interests in Personal Property* [Little, Brown & Co. 1965].

Our Committee has not adopted a statement of reasons, but I shall exercise the Chairman's prerogative of stating some of them: Grant Gilmore's work exhibits the singular power of the single human mind, not likely to be matched by any team or committee or task force, to impose a kind of order on unruly and recalcitrant facts, to see a piece of reality in a new way. His field has been traditionally obscure, technical, particularistic, rule-ridden. Through his labors and those of others, especially the late Karl Llewellyn, a statutory tour de force has illuminated the field. And now, by a superb act of critical detachment, Professor Gilmore has reappraised that reappraisal, set it in its historic perspective, analyzed its central problems and unsparingly criticized its deficiencies. He is no builder of closed systems; he substitutes no new dogmas for the old ones. If his treatise is "definitive" — and it is — that quality inheres in its recognition that soundly conceived legal doctrine is simply a starting point for



*Grant Gilmore '43, professor of law at the University of Chicago, was a member of the Yale Law School faculty from 1946 to 1965; professor from 1951 and William K. Townsend Professor of Law from 1958. Professor Gilmore also holds two other degrees from Yale University — the B.A. (1931) and the Ph.D. (1936, in French).*

thinking about a problem in its context. Finally, Grant Gilmore exhibits a lucidity and grace in this, as in his other works, that stands as a reproach to those who think that style is somehow separate from substance. The mind at work in these pages is fastidious, ironic, aristocratic. These are not qualities that are much in vogue today; they are

qualities that are worth celebrating when brought, as here, to the solution of significant legal and intellectual problems.

*Response by Professor Gilmore:*

I have often thought that the distinguishing mark of our peculiar profession is its essential loneliness. There are many honorable ways of making a living — indeed of coping with life — in which you know to start with what it is that you are supposed to be doing and will in due course be told whether or not you have succeeded in doing it. We are like spies in an alien land, cut off from any contact with headquarters, with no way of ever finding out whether the intelligence which we diligently collect and relay is what is required of us or is even relevant to our vague and ambiguously stated mission.

We do something called teaching. But we all know from bitter personal experience that nothing is, or can be, taught once we get beyond the communication to small children of the basic mysteries on which civilization depends — how to read, how to write, how to count. We can of course pump students full of facts or even brainwash them — but pumping facts is a waste of everybody's time and washing brains in public is, as Justice Holmes might have told us, dirty business. Learning is what the students are there for and all we know about learning is that, on any level of complexity, it is every man for himself and by himself, imposing a perhaps delusive formal pattern on the swirling chaos by a prodigious effort of the individual will. It may be that we can stimulate, or irritate, an occasional student into undertaking this arduous task

— but, if we do so, it will be much more by accident than by our own design. Karl Llewellyn once observed that the function of the law teacher is not to let the true light shine: he was wise to content himself with that negative formulation.

We also engage in something called research and scholarship. We write learned articles and books, we draft Codes and Restatements, we publish or we perish — sometimes we do both. In our articles and books and Codes and Restatements we are indeed concerned to let the true light shine. We aim at a hammerlock on certainty, a stranglehold on truth. In the ecstasy of struggle it is hard not to succumb to the illusion that we have, once and for all, wrestled our adversary to the ground. But time, which outwits us all, will presently reveal the boundless extent of our ignorance, our limitless capacity for self-deception.

Still, if you can stand the loneliness, it's a good life. But it is heartwarming. I must confess, once in a while to be invited to come in out of the cold.

I thank you.

## ROSS ESSAY PRIZE



Floyd Abrams '59, an associate in the New York City firm of Cahill, Gordon, Sonnett, Reindel & Ohl, was the winner of the 1967 Ross Essay Prize, for his paper "What Are the Rights Guaranteed by the Ninth Amendment?" The award was made at the annual convention of the American Bar Association in Honolulu this past August. Mr. Abrams, a graduate of Cornell, served as law clerk to Judge Paul Leahy of the U.S. District Court at Wilmington, Del., from 1961 to 1963. The essay contest, conducted annually by the Association on a subject chosen by the Board of Governors, is open to all members of the Association. The first prize was awarded in 1934. The subject this year was "Under the Ninth Amendment, What Rights Are the 'Others Retained by the People'?" Previous Yale Law alumni winners have been Ernest O. Wilkerson '47 (1949); John Pryor Furman '46 (1957); Robert McKay '47 (1961); and Thomas A. Gilliam '48 (1962).