

# UNIVERSITY OF PITTSBURGH LAW REVIEW

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VOLUME 37

SPRING 1976

NUMBER 3

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## DEDICATION

DAVID R. BOOKSTAVER

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The retirement of Professor David R. Bookstaver from the faculty of the University of Pittsburgh Law School brings into focus a career and a life which have been and will remain a model of decency, devotion, and high values for hundreds who have appreciated him as a lawyer, a teacher, and a colleague on law school faculties, and for thousands more who have found sustenance in his careful scholarly writing about law.

But Dave Bookstaver's career has a dimension beyond the fineness of a worthy life. Like military men, lawyers sometimes confront searching tests of character and professional mastery, sudden squalls or storms in which everything depends on what they do or fail to do in a few confused minutes. Dave Bookstaver has had to meet such tests on a number of occasions. Each time, he proved himself to be a lion.

Dave Bookstaver came to the Yale Law School from Cornell in 1926, and took his LL.B. with honors in 1928. In 1928-1929, he did a year's graduate work at Yale, and some teaching too, as a Sterling Fellow.

For thirteen decisive years, Professor Bookstaver then practiced law, first in New York City, later in East Hampton, Long Island. He views that experience as critical to his formation and his outlook.

In his own eyes, he has always been a lawyer first, rather than an academic, an all-purpose intellectual, or a crusader. Somehow, somewhere in that period, from his reading, and the example of others—perhaps even from his time at Yale—he acquired a magnificent sense of the duties of a lawyer, and a lawyer's conditioned reflexes. Professor Bookstaver has written eloquently of the profession as an adventure requiring not only "learning, discipline, and a spirit of public service," but "objectivity and a passion for justice," too. He had learned Erskine's lesson well.

This was the creed he took to Washington, along with his skills as a small town lawyer, when he joined the dazzling crew of the Office of Price Administration in 1942, shortly after Pearl Harbor. Professors Thomas I. Emerson, Henry Hart, Richard Field, Fleming James, and Nathaniel Nathanson, Judge Harold Leventhal, David Ginsburg, Samuel W. Block, and Ben W. Heinemann were among the luminaries of Dave Bookstaver's day. So was he. His service was outstanding, and his reputation excellent. By every account, he was one of the forceful and effective members of a staff which has long since become a legend.

When Leon Henderson was fired as head of OPA, Dave Bookstaver transferred to the Department of Justice, where he served until 1947, when he joined the faculty of the American University Law School. He has been a law teacher ever since.

In 1947, the American Law School was a sorry place. Like many other optimists and reformers, Professor Bookstaver could not understand why no great University—and no great University Law School—has ever been brought into being in Washington. It is a mystery many have challenged, thus far without success. Dave Bookstaver soon began to work hard for the improvement of the American Law School, first as one of the few full time members of the faculty, and then for five stormy and eventful years as Dean.

He accomplished a good deal. He attracted a succession of brilliant young Washington lawyers into part-time teaching at the American Law School. Many of them later became distinguished full-time teachers elsewhere—Abraham Goldstein, for example, Leon Lipson, and Herbert Packer, among others. He helped to solve the School's financial problems, and began to build a stronger full-time faculty. The American University Law School was beginning to become a lively part of the Washington intellectual scene when

Dean Bookstaver had to deal with a crisis which, under his determined leadership, became a cause célèbre.

A member of the full-time faculty had been appointed for the sixth time on annual contracts. Under the rules of the University, reappointment after seven years would have carried tenure. In closed hearings before the Committee on Un-American Activities of the House of Representatives, it emerged—and was duly leaked to the press—that the faculty member had once been a member of the Communist Party. Within a few days, the President of the University in effect imposed administrative suspension on the professor, by threatening him with dismissal unless he asked for “a short leave of absence,” which was granted with pay. In brief proceedings before the Executive Committee of the Board of Trustees, Dean Bookstaver protested the action of the President. He urged the Law faculty’s primary jurisdiction of the case, and the suspended faculty member’s rights of academic due process, and recommended that the contract be carried out. When Dean Bookstaver’s proposals were rejected, he called the attention of the Committee on Academic Freedom and Tenure of the Association of American Law Schools to the situation, and urged that body to act. And he resigned as Dean.

After an investigation and negotiations, the University’s statutes were changed, and the Association finally voted a Resolution which “strongly disapproved The American University’s failure to observe proper standards of academic due process” in the case. Professor Clark Byse, who had been Chairman of the Association’s Committee on Academic Freedom and Tenure, made this statement in the course of the Association’s debate on the recommendations of its Committee on Academic Freedom and Tenure, to which his successor in the post, Dean Henry Brandis, responded:

Mr President, I have one last comment to make. I am not making a motion at this time, for I would like to see whether other people share my feeling. But I do want to put this on the record: One man, in my judgment, comes out of this unhappy incident with real glory and that man is the former dean of this law school, Mr. David Bookstaver. He was the one who invited the attention of our Committee to this matter. He is the one who, as it appears in this report, stood up for the principles of academic freedom and fairness, before his President and before the Board of Trustees. It is he who now—but this might be unfair and I shall not pursue it.

But the point is that this man stood up. I believe we owe a little bit to people like that who for principles—important principles—stand up against presidents and trustees. And I feel very firmly that we should express more than “strong disapproval.” I think the sanction should be one step stronger. Thank you, Mr. President. [Applause]

DEAN BRANDIS: Mr. President, Ladies and Gentlemen: I am not going to disagree with my good friend, Clark Byse. I got my first education in this field under his guidance. I would like to second everything Clark said about Dave Bookstaver. I think a full reading of the record in this case makes it quite apparent that he was the only man who stood up publicly for the principles this Association sponsors.<sup>1</sup>

Dave Bookstaver's career has been punctuated with comparable episodes of courageous service to the cause of law, and of legal education. None were so public, and some indeed must remain private still—assignments to inspection teams of the Association, work on cases of people caught up in the illiberal hysteria of the late forties and early fifties. In all these situations, Dave Bookstaver's contribution was of the same splendid quality.

After the turmoil at the American University, he spent a year of research as a Senior Fellow at the Yale Law School, and then, in 1957, joined the faculty of the University of Pittsburgh Law School, where he proved himself to be not only a beloved teacher, but a strong and active member of the faculty group, led by Dean Edward Sell, which has done such constructive work in fulfilling the institution's high potential for excellence.

David Bookstaver has earned the trust and the affectionate respect of all who have dealt with him, and know what he is, and what he has done. He shared fully in the turbulent life of his times, and in that process, his compass never failed to show him the path of principle.

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1. Association of American Law Schools, 1956 Proceedings 64 (1957).

*W. Edward Sell, Dean of the School of Law and Professor of Law,  
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In Sandburg's "Lincoln," the following appears:

Wild talk of what might happen to Lincoln at Baltimore had reached up into New York City, where Superintendent of Police John A. Kennedy, on his own initiative, ordered detectives to have a look at the Maryland city. One of these, David S. Bookstaver, without meeting the Pinkertons or knowing their work, had posed as an agent for a musical house, canvassed all classes, and decided that hell would break loose if Lincoln set foot in Baltimore, that in the commotions and riots staged Lincoln wouldn't come through alive. Bookstaver headed straight for Washington and told what he knew to General Scott and Colonel Stone. Their decision and Seward's that Lincoln should not go to Baltimore rested on the New York detective's certainty that Baltimore was volcanic and would erupt, and on the reports of two detectives sent to Baltimore by Colonel Stone, whose findings tallied with Bookstaver's.

From time to time, Dave Bookstaver trots out this item for the benefit of a staff member who has come to believe that Professor Bookstaver is indeed an institution rather than a man. And for a moment, when I read of policeman Bookstaver, I, too, am compelled by the distinct plausibility of his having been there. I wonder at being comfortable with this reaction—even for a moment. But it is in this reaction that one of the two most striking attributes of Dave Bookstaver becomes clear. All of us who have worked with Dave, either in the classroom as students, or as faculty or lawyer colleagues, must be struck by the consistency of the man. His style is to be both patient and intolerant. He is constant in his effort to help us see and understand our problems, and he makes his intolerance of our taking our ease mentally well felt.

It is perhaps the consistency—the patience—in another form that accounts for his great impact on this school. At the center of his professional philosophy is his never failing willingness to serve. Some might call it dedication. Some might call it fidelity. Horace said: "Fidelity is the sister of justice." Others might describe it as commitment, while still others might suggest duty as the appropriate term of description.

None of these could be misused when applied to David, but

each is insufficient. Whether acting as an advocate for a school searching for a chance in the sixties or taking the time to learn thoroughly materials for a course he believes students need—though his interest in the course might be marginal—there is never any hesitation on his part. He goes forward directly and to the point of complete sacrifice, no matter his personal convenience, desires or even career aspirations. The needs of the School, of his colleagues and his students have been his sole concern.

I trust that by his example and his efforts on behalf of the School, his love for his profession will continue as an inspiration to each of us who has or will have the opportunity to know him. Each of us is grateful for this.