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## A UNIVERSITY SERVICE TO LEGISLATION: Columbia's Legislative Drafting Research Fund

*John M. Kernochan\**

Some years ago, in a provocative paper presented at the Southeastern Regional Conference of Law Teachers, Professor Harry W. Jones argued that the law schools were neglecting important opportunities for training and public service in the field of legislative drafting.<sup>1</sup> Behind this contention were his own association and experience with Columbia University's Legislative Drafting Research Fund;<sup>2</sup> but his paper did not discuss the Fund itself in any detail. In December 1954 at the annual meeting of the Round Table on Legislation of the Association of American Law Schools, the subject of "Legislative Drafting in the Law Schools" was again discussed.<sup>3</sup> Participating panelists from Colorado, Harvard, and Michigan outlined the drafting activities going forward at their respective institutions. But, as chairman of the panel, the present writer felt bound on that occasion to restrain a natural urge to talk about his own program.

In the wake of these omissions, there have been a number of requests for information about the Fund. When a formal invitation arrived asking for such information as part of this symposium, it seemed a good opportunity to rectify past silences. Accordingly, there follow some brief descriptive notes regarding the nature of the Fund and of its legislative drafting work.

There is no question that institutionalized legislative drafting is now a growing phenomenon in the law schools. In part, this is a byproduct of a larger trend toward increased recognition of legislation as a law school concern. But it is also due in part to the fact that the law schools have begun to see what Professor Jones pointed out — the combined public service and pedagogical

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1. See Jones, *A Case Study in Neglected Opportunity: Law Schools and the Legislative Development of the Law*, 2 J. LEGAL ED. 137 (1949).

2. From 1947 to 1951, Professor Jones assumed the executive direction of the Fund under the late Joseph P. Chamberlain.

3. The principal address, *Legislative Drafting and the Law Schools*, by Reed Dickerson, Esq., appears at 7 J. LEGAL ED. 472 (1955).

possibilities which drafting offers. It is hoped that the account below will further highlight these possibilities.

### *Origins and Organization*

In point of time, the Fund is surely entitled to consider most other university ventures in institutionalized drafting as late-comers. It is now some forty-five years since the Legislative Drafting Research Fund was established at Columbia. On the basis of a gift by Joseph P. Chamberlain, Columbia University accepted a proposal in the spring of 1911 to set up "a bureau — for the promotion of scientific study and investigation of legislative drafting and for the collection of materials relating thereto."<sup>4</sup> This bureau was to operate for an initial experimental period. Operations were to be supervised by an administrative board of three members, including the donor and two members of the Columbia faculty who had been active in encouraging the new venture and in persuading the University to undertake it. These two faculty members were John Bassett Moore, then Hamilton Fish Professor of International Law and Diplomacy, and later Judge of the Permanent Court of International Justice; and Harlan Fiske Stone, then Dean of the Law School, and later Chief Justice of the United States. The operating staff, which began work on July 1, 1911, included Joseph P. Chamberlain, and two others, Thomas I. Parkinson and Middleton Beaman, of whom more will be said hereafter. Mr. Parkinson became the first Director. Owing to its success in the trial period under his leadership, and thanks to further gifts by Mr. Chamberlain, the Fund in 1917 was assured a permanent place in Columbia University.

The organizers of the Fund had at least two objectives in mind which are vital to an understanding of the institution. First and most obviously, they were concerned with the improvement of legislative drafting and with research directed to that end. Plans in this connection called, significantly, for the application and testing of their drafting research and methods in the performance of selected practical projects for responsible agencies outside the University. In such "laboratory" work, it was expected that the Fund would perform important public services

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4. Letter of Joseph P. Chamberlain to President Nicholas Murray Butler of Columbia University, dated April 27, 1911.

toward what Mr. Parkinson later aptly termed the "legislative development of the law."

The second major purpose of the Fund was instructional. The founders chose to affiliate their laboratory with a university, not merely so that they could draw on the resources of a strong faculty and extensive library in their work, but also because of the "possibility of training educated young men, without whose help no work of this kind will grow and prosper."<sup>5</sup> With regard to training on the law school side, they had at least two designs: first, to insure that some basic minimum of instruction in legislation was given to all students of law; and second, to provide intensive specialized training in legislative drafting and related disciplines for a small number of selected apprentices.

After forty-five years, the purposes of the Fund have not changed. Why should they? They are as timely today as they were when conceived. Notwithstanding such progress as we have made—and we have made some—in meeting the problems of legislation, we are in many respects not much nearer to the "scientific" preparation of it than we were in 1911. The growth of drafting agencies has been met by increases in the volume and complexity of our legislative law. In many of our state legislatures, bills are being prepared under conditions that make sound procedures next to impossible. There is as much need for effective drafting assistance and for trained draftsmen as there ever was.

If the basic purposes of the Fund have not altered, its organization has nevertheless undergone some modification. Today, the original administrative board of three has been replaced by an advisory board of five, including the Dean of the Law School, *ex officio*.<sup>6</sup> The present board members include two professors of law and the executive officer of the University's Department of Public Law and Government. The chairman of the board is

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5. Letter of Joseph P. Chamberlain to President Nicholas Murray Butler of Columbia University, dated April 27, 1911.

6. Section 291 of the Columbia University Statutes (1952 ed.) provides, in part: ". . . To assist the Director [of the Legislative Drafting Research Fund] in the performance of his duties, there shall be an Advisory Board consisting of the Dean of the School of Law, *ex officio*, and not fewer than four other persons nominated by the President and appointed by the Trustees for a term of three years. . . ."

Mr. Parkinson, first Director of the Fund and now a trustee of the University.

The operating staff has changed more significantly. In 1913, for example, Director Parkinson could report that "Seven men, all lawyers, are devoting their entire time to the work."<sup>7</sup> This staff of seven included the Director; and neither the Director nor any other member was engaged in any teaching.<sup>8</sup> Today the regular staff normally consists of two officers — a Director and an Associate Director — and about eight assistants. Moreover, the growth of Fund participation in the formal instructional program of the Law School has so modified the role of the Director that his time is now divided about equally between the teaching duties of a professor of law and the Fund's research and drafting projects. The remainder of the staff is at present composed not of law graduates but of selected undergraduate law students, called Legal Assistants, who work as paid staff members on an extra-curricular part-time basis. This practice of using undergraduate law students to staff the Fund arose gradually in the period following World War I and has proved most rewarding. One effect has undoubtedly been to reduce the volume of practical work which can be undertaken at any one time. But this has been more than compensated for by the closer integration of the Fund with the educative processes of the Law School and by the opportunity for earlier inculcation of specialized training.

Besides the regular staff just described, additional staff members may be engaged on an *ad hoc* basis for work on specific projects. At present, for example, eight such additional staff members are employed upon the work of the Fund. And mention should be made here of the Chamberlain Fellows in Legislation who, depending on their program of study, may augment the staff from time to time.

### *Teaching and Training*

With the foregoing smattering of history and organization as an essential background, the work of the Fund and the role of its legislative drafting operations in the life of the Law School can probably best be approached in terms of the two major objectives referred to earlier. Activities in the service of the teaching and training objective will be considered first.

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7. 5 COLUMBIA ALUMNI NEWS 130 (Nov. 7, 1913).

8. *Ibid.*

The Fund's participation in the general teaching activities of the Law School did not begin immediately upon its establishment. The first major "break-through" on this front — and it was a historic one — came in 1917 when a new professorship of legislation was created and Mr. Parkinson was appointed to fill it. In assuming this post, Mr. Parkinson became "it is believed the first professor of legislation in any American law school."<sup>9</sup> Apart from its pioneering aspect, this professorship also marked the end of the Fund's initial or "experimental" phase and the beginning of its career as a permanent arm of the University. Thereafter the intervention of the war and other important events delayed for several years the Fund's actual entry upon formal instruction. But in 1919-20 the new professor of legislation began to teach in the Law School, and in 1924-25, alone or with others, he was offering to advanced students two elective courses entitled respectively "Statutes" and "Legislative Developments of the Law: Problems in Constitutionality."<sup>10</sup> The Fund's teaching program had meanwhile been considerably extended in another direction when, in 1923, Joseph P. Chamberlain, who had become the Fund's Director some years earlier,<sup>11</sup> was made a professor of public law in the Faculty of Political Science. While he taught legislation and other subjects principally under that faculty, he came to assist also in courses given under the Law Faculty of which he became a member in 1927-28. A climax to these developments came with the establishment in 1928-29 of a new spring semester course in Legis-

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9. Quoted from unpublished memorandum in the files of the Legislative Drafting Research Fund from Director Joseph P. Chamberlain to Professor Lindsay Rogers, dated Feb. 22, 1937.

10. The Announcement of the School of Law of Columbia University for the year 1924-25 describes these courses as follows:

"Statutes. Two hours Spring Session. Professor PARKINSON.

"This course deals with legislative development of the law and seeks to train the student in the use of statutes; it includes consideration of different types of statutes, problems in statutory construction, the validity and interpretation of indefinite statutes, statutory presumptions penalties and other enforcement devices; consideration is also given to formal requirements, and other constitutional provisions affecting the enactment or interpretation of statutes."

"Legislative Developments of the Law: Problems in Constitutionality. 3 points Winter Session. Professors CHAMBERLAIN, DOWLING and PARKINSON.

"Current problems in the development of the law by statute arising from constitutional distribution of the powers of government and guarantees of private interests will be discussed and made the subject of research and report. Prior completion of a course in Constitutional Law or Administrative Law will be essential."

11. Mr. Chamberlain became Director of the Legislative Drafting Research Fund in 1918 following Mr. Parkinson's departure to Washington for war service. He served as Director from 1918 until his death in 1951.

lation required to be taken by all first-year law students.<sup>12</sup>

It is perhaps difficult to recreate now an era in which legislation was virtually ignored by the law schools. A glance at the long roster of legislation teachers in the West Publishing Company's latest "List of Law Teachers by Subject" shows that we have traveled far from the conditions of 1917. Yet it is necessary to call up the prejudices and omissions of that time if one is to appreciate the boldness, as well as the foresight, of Dean Stone and his Columbia colleagues and their successors in supporting the Fund and its professorship, and in approving, finally, the entry of legislation into a jealously guarded first-year curriculum.

Today, the Fund's general instruction in the Law School consists of two parts. First, the Director, as Professor of Law, teaches the legislation materials of the first-year course in Legal Method. This course, developed by Professor Dowling (who was one of the Fund's early staff members and has long been closely associated with its work), and Professors Patterson and Powell, superseded in 1944 the earlier course in Legislation.<sup>13</sup> It combined, on a roughly equal basis, materials on method in case law and method with statutes. The treatment of legislation was sharpened and compressed. As the course stands, the legislation materials are concentrated on statutory interpretation with side explorations of the legislative process and the problems of drafting. They are devised to insure that all law students gain skills and insights in the use of statutes equal in degree to those traditionally taught them in the use of case law. The classroom work is supplemented by research and writing exercises performed under the guidance of the Associates in Law.

Beyond this required course, the Fund also offers advanced instruction on an elective basis, through the medium of fall

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12. The Announcement of the School of Law of Columbia University for 1928-29 describes this course as follows:

"Legislation. Two hours Spring Session. Professor T. I. PARKINSON.

"This course deals with legislative development of the law; relation between the common law and statute law; fact basis of legislation and judicial review; types of statutes, legislative sanctions, and provisions for administration. The student will be given training in finding and applying statute law."

In 1936 this course was assigned three hours and moved into the first, or fall, session of the first year. Entering law students thus received their initial training in legislation concurrently with their initial case law instruction.

13. It has since been further developed by Professor Harry W. Jones, who prepared the second edition (1952) of the basic casebook, *Materials for Legal Method*.

seminars in legislation and state constitutional law. A spring seminar, under the traditional rubric "legislative development of the law," is devoted to methods and skills in the preparation of legislation.<sup>14</sup> Practical problems, especially problems involving drafting, are the principal fare for all these seminars.

In contrast to the delayed commencement of the Fund's general instruction for all law students, its specialized training for selected apprentices may be said to have begun almost at the outset with the employment of one or more graduates fresh from the law schools. Then, as now, the core of the Fund's specialized training was practical work on the research and drafting projects under way in the office. In drafting, there is no substitute for "learning by doing" under a wise and critical tutelage. While some valuable general criteria and procedures can be laid down in didactic fashion, no single manual or treatise can give guidance for the thousand and one questions of judgment which must be answered in the preparation of almost any substantial draft. Thus, although some formal teaching is essential in this area, it may be doubted that stress upon experience and practical work will ever be replaced.

With its essential core of practical work continuing, the Fund's specialized training in drafting has nevertheless undergone substantial development. Formerly, the tenure and assign-

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14. The Announcement of the School of Law of Columbia University for 1956-57 describes these offerings as follows:

"Seminar in Legislation. 2 pts. Winter. Professor Kernochan and Mr. Grad.

"This seminar explores the materials and skills necessary to the proper understanding and use of legislation. Through the medium of selected problems, it reviews: the essential characteristics of the modern law-making process in Congress and the state legislatures; the sources and finding of statute law; the interpretation of legislation; and counseling and advocacy in statutory cases."

"Seminar in state constitutional law. 3 pts. Winter. Professor Kernochan.

"Current problems of practical interest and importance in the field of state constitutional law. The seminar will consider such subjects as: the nature of state constitutions; bills of rights in state constitutions; powers of taxation; division of powers between states and the nation and between states and localities. Emphasis will be placed on the litigation of state constitutional questions and on the drafting of constitutional provisions and statutory implementation."

"Seminar in legislative development of the law. 2 pts. Spring. Professor Kernochan and Mr. Grad.

"Selected problems in the development of statute law with particular reference to professional skills of legislative research and bill-drafting. Significant current problems of federal or state legislative policy will be assigned for study and discussion, and members of the seminar will be required to conduct necessary background investigation and research and to prepare actual drafts of proposed legislation accompanied by appropriate explanatory memoranda.

"The work of this seminar will be integrated, to the extent possible, with the current activities of the Legislative Drafting Research Fund of Columbia University."



ments of Legal Assistants were dictated almost entirely by needs of the moment, and, in particular, by needs arising out of current projects. This has been succeeded by a systematic two-year program designed to insure that all Assistants receive vigorous and uniform grounding not only through practical work but also, where appropriate, through formal instruction. A brief outline of the program will show best what is being done.

At the beginning of each academic year, three or four men are selected on merit from applicants in the second-year law class. The selection process is careful, for not every good student possesses the kind of interest, scholarship, maturity and writing ability that promises good legislative drafting. Interviews, samples of legal writing, and written applications are required of all candidates.

When a new Legal Assistant has been selected, his two-year program of paid part-time Fund work begins immediately. In the first semester, he is assigned research (usually in aid of an existing project) and, under close staff supervision, is drilled in the preparation of legal memoranda. He must take at this time the course in Constitutional Law, a subject of most vital concern to draftsmen. In the second semester, he is required to take the seminar in legislative development of the law conducted by the Director.<sup>15</sup> As suggested earlier, a large part of this seminar is devoted to preparation and criticism of drafts. Through the medium of the seminar, the Director can also impart to his Legal Assistants and to other interested registrants such material on drafting as lends itself to didactic presentation. Individual seminar problems are frequently "live" in the sense that they relate to topics in which the Fund or some other sponsoring group has an active practical interest. Along with the required seminar drafting assignments, the Assistants continue their extracurricular labors on Fund projects.

By the end of an Assistant's first year on the Fund, his training has progressed sufficiently so that in the second year — as his abilities warrant and the agenda permits — he may be given more responsible tasks. Assistants who demonstrate high capacity may even be permitted in the second year to take full responsibility in the execution of projects for outside agencies, provided that suitable projects are available. The experience gained in

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15. See note 14 *supra*.

the second year usually proves to have been substantial and varied indeed by the time an Assistant reports for his law degree.

But the undergraduate Assistants and their program do not tell the entire story of the Fund's specialized "laboratory" instruction. Both through *ad hoc* and regular staff positions the Fund provides training to graduates as well. There is also today a Chamberlain Fellowship in Legislation, established in 1953 on the basis of a gift by Thomas I. Parkinson. This is awarded for study and research in the legislative development of the law. Chamberlain Fellows are appointed by the Law Faculty on nomination by the Director of the Fund, and their programs are normally executed in connection with the work of the Fund. Those eligible include law school graduates and "other qualified persons." All in all, the Fellowship provides an unusual opportunity for research in fields related to legislation and for the acquisition of a special training, apt alike for later work in legislation or law administration or for later law teaching.

The record of Fund alumni over the years gives impressive evidence of the merits of the Fund's training. Roughly a fourth of its alumni have served at some time either in the offices of Legislative Counsel in the Congress or in the legislative drafting agencies of the states. Many more have held high governmental offices in other capacities which have called upon skills sharpened by Fund work. Others have entered upon the teaching of legislation or government or have become prominent in other walks of the law. Among the many alumni who have turned earlier or later to the private practice of law, it is a well-nigh unanimous opinion that the disciplines of legislative research and drafting — of all legal disciplines the most severe — provide a uniquely effective foundation for private practice.

### *Legislative Drafting*

A review of some of the major legislative projects of the last forty-five years will suffice to fill out the brief sketch which it has been the purpose to present here. While earlier paragraphs on history, organization and teaching activities have attempted to show something of the resources of the Fund and of the ways in which its legislative drafting has been turned to account for training purposes, these matters tend to seem two-dimensional apart from a more specific account of the practical work itself. Before taking up the various projects, however, it is desirable

to consider at least in a cursory way what "legislative drafting" means to the Fund.

In 1915, Director Parkinson outlined concisely the broad implications of drafting which the Fund has always stressed:

"The drafting of legislation involves much more than matters of form, such as style, arrangement and choice of words. It involves appreciation of the conditions which it is desired to regulate, the means by which the purpose of the regulation can be best accomplished, the administrative organization, powers, duties and procedures which are best suited to the effective enforcement of the proposed regulation, and the adjustment of the proposed legislative and administrative scheme to existing constitutions, statutes and administrative organizations. In addition to the legal research which this work naturally suggests, there is also involved the hardly less important research in administration to discover processes and devices likely to result in economical and efficient enforcement of proposed statutory provisions, and the investigation of economic and social conditions to discover the essential characteristics and scope of the evil requiring legislative remedy, and the precise nature and extent of the remedy needed."<sup>16</sup>

Another, much more detailed, account by one of the other organizers of the Fund appears in Beaman, *Legislative Drafting*, in 7 *Law Library Journal* 64 (1914). But in each case the tenor is the same. Without minimizing the significance of form, language, and other so-called "mechanical" considerations attending the actual writing of a bill, the Fund from the first has emphasized the importance of the so-called "substantive" or research phases in the preparation of sound legislation.<sup>17</sup> And such an emphasis is timely today. It is with respect to the substantive phases of drafting that the greatest general ignorance and misconception still exist. The "avalanche" conditions under which so many state drafting agencies now labor will never be remedied until there is wider awareness of what a

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16. Parkinson, *The Legislative Drafting Bureau*, 7 *COLUMBIA ALUMNI NEWS* 283 (Nov. 26, 1915).

17. See also, e.g., CHAMBERLAIN, *LEGISLATIVE PROCESSES: NATIONAL AND STATE* cc. 1-2 (1936); Jones, *Notes for a Legislative Research Checklist*, 36 *A.B.A.J.* 685 (1950) and *Some Reflections on a Draftsman's Time Sheet*, 35 *A.B.A.J.* 941 (1949); and Peacock, *Drafting a Proposed Statute*, *THE PRACTICAL LAWYER*, p. 19 (Nov. 1955).

thorough job of drafting requires in the way of research. For its part, the Fund has always endeavored to insist upon conditions for drafting which will permit it to do a complete job on the substantive side. A University bureau should do no less.

In the context of methods and standards such as these remarks suggest, the Fund's projects may be viewed with more understanding. It is significant that, of the two major classes of Fund projects, *i.e.*, research projects and drafting projects, quite a few of the former have been directed toward assembling or exploring materials which might aid in the performance of the substantive phases of drafting. Of such character was the *Index Digest of State Constitutions* prepared in 1915 for the New York State Constitutional Convention Commission. This digest has long been a notable research tool.<sup>18</sup> Fund personnel were active too in the establishment of the invaluable but now discontinued *State Law Index* published by the Library of Congress. Another project pertinent to the substantive phases of drafting was the study of *The Judicial Function in Administrative Agencies*, made by Chamberlain, Dowling, and Hays for the Commonwealth Fund in 1942. More recently, the Fund has contributed much research to the preparation of Dowling's *Cases on Constitutional Law*<sup>19</sup> and has been exploring state constitutional provisions regulating the form of bills.

Under the general head of research projects — that is, studies which are not aimed at producing a draft of legislation — there have always been a large number which do not deal directly with legislative drafting methods. These are normally studies of substantive areas of controversy or doubt which offer some probability of legislative development. It is desirable that the subjects be such that their exploration is likely to yield data or insights which will serve as a foundation for later legislation (whether prepared by the Fund or some other agency). Two or three examples of such projects drawn from different periods will serve to illustrate their nature.

Early in the history of the office, pioneering studies were made defining and developing the now generally familiar doctrine of congressional consent to state action,<sup>20</sup> a doctrine which has provided an affirmative guide over the years in the prepara-

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18. See GRAVES, *AMERICAN STATE GOVERNMENT* 76 (4th ed. 1953).

19. As to these contributions, see *e.g.*, *id.* at preface and c. 1.

20. See Dowling, *Interstate Commerce and State Power: Revised Version*, 47 COLUM. L. REV. 547, 552-53 (1947).

tion of much state legislation. Again, from the middle years, one might single out the Fund's participation in the preparation of the report on compensation for automobile accidents published in 1932 by Columbia University's Council for Research in the Social Sciences. This report is still a leading work in its field and still a focus for discussion.<sup>21</sup> The report was supplemented by a further legal study in 1950.<sup>22</sup> Today the Fund has embarked upon major research in another growing area of the law — that of atomic energy. Under way is a study of the "atomic insurance problem," *i.e.*, the problem of providing financial protection against the risks of large-scale damage attendant upon operation of atomic installations. This project is being executed under the sponsorship of the Atomic Industrial Forum, Inc. A preliminary report was published in March of this year.<sup>23</sup>

While the Fund willingly undertakes research projects of the kind described, a calendar exclusively composed of such projects would raise evident difficulties. For drafting training, which is after all vital to the Fund, it is essential to have on the agenda at least a few projects likely to culminate in a reasonable time with an actual draft of legislation. As a matter of fact, drafting projects of varying shapes and sizes have comprised the bulk of Fund business throughout its existence. It is these projects and their sponsors which are now to be considered by way of conclusion.

The Fund has served many sponsors in the performance of legislative drafting projects. The sponsors have included legislative committees, commissions, and administrative departments, as well as many other agencies of government. Bar associations, civic groups, and even private organizations, have also requested and received technical drafting assistance. In a number of cases, the sponsors concerned have provided financial support covering all or part of the costs incurred by the Fund in executing the work.

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21. See, *e.g.*, Marx, *Compulsory Insurance Legislation Advocated*, 8 VA. LAW WEEKLY DIGEST 1 (Feb. 16, 1956); and Hofstadter, *Let's Put Sense in the Accident Laws*, *The Saturday Evening Post*, Oct. 22, 1955, p. 17.

22. Grad, *Recent Developments in Automobile Accident Compensation*, 50 COLUM. L. REV. 300 (1950).

23. Murphy, Ball & Gibbs, *Financial Protection Against Atomic Hazards*, published by the Atomic Industrial Forum, Inc. Reprinted in the April and May, 1956, issues of *Best's Insurance News*.

It is impossible, of course, to "take on all comers," as there have always been more requests for aid than the facilities could accommodate. Beyond this there must inevitably be, also, some exercise of critical judgment in the selection of projects and sponsors. The nature of the selection depends to some extent on requests received and on workload. But in general, assuming that the requesting sponsors are responsible agencies and their proposals are substantial, not frivolous, the Fund in choosing between projects tries to channel its efforts and its relatively modest resources into the more significant areas where those efforts and resources will bring maximum results in the cause of improved legislation. One point is important to stress, however, in regard to projects and sponsors. In Mr. Parkinson's words: "No reforms are being initiated or advocated and no propaganda is being carried on [by the Fund]. Questions of the wisdom of the policies underlying proposed legislation are left entirely to its proponents."<sup>24</sup>

No Homeric "catalogue of ships" will be attempted here in discussing the many drafting projects which the Fund has completed in its forty-five years. Since it is not possible to deal with more than a fraction of the total, only a few highlights representing various facets of the work will be noted.

By 1918 when Mr. Parkinson left Columbia temporarily for war service, the Fund as we have seen had already compiled an impressive record of accomplishment — so impressive that this experimental unit had been made permanent and the Law School's Faculty had acceded to the addition of a new professorship of legislation. One of the principal factors in the compilation of this record was the work done in the earliest days in the field of workmen's compensation. This work was, indeed, the Fund's initial effort. The first meeting of the first administrative board in 1911 closed, for example, with a resolution that "until further direction, persons employed by the Fund in research devote themselves to Workmen's Compensation and Employers' Liability." Much of importance was accomplished, including the preparation of a federal workmen's compensation bill, and the drafting of the amendment to the New York State Constitution authorizing a workmen's compensation act. Aid was rendered to the Uniform Law Commissioners in the prep-

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24. 5 COLUMBIA ALUMNI NEWS 130 (Nov. 7, 1913).

aration of a Uniform Workmen's Compensation Act, and to state legislative committees in the drafting of bills on the same subject. Of course many other subjects received attention during the same period. Thus, industrial safety and other labor legislation were prepared for a variety of sponsors, including the American Association for Labor Legislation and the New York State Department of Labor. A complete revision of the New York Labor Law was prepared for an official commission. Illustrating the wide range of the activities were a bill carrying out the recommendations of the Senate committee investigating the Titanic disaster, and a bill, adopted in 1915, reorganizing the New York State Tax Department.<sup>25</sup>

Toward the close of the period prior to World War I, there began an undertaking and a chain of events which led to what is undoubtedly the Fund's outstanding contribution to the legislative development of the law. Since the full story of this contribution has been excellently told elsewhere,<sup>26</sup> it is only necessary to indicate the main facts briefly here.

For some years prior to 1916 efforts had been made without success to persuade Congress to set up a legislative drafting service. The proponents of this idea, including persons active in the establishment of the Fund, concluded that only an actual demonstration of the values of such a service could convince the Congress of the need for it and of its desirability. Having decided that the time was ripe for the demonstration, the Directors of the Fund dispatched Middleton Beaman to Washington early in 1916 to undertake the assignment. Mr. Beaman, representing the Fund, furnished drafting aid for two years to congressional committees, principally the House Committees on Merchant Marine and Fisheries and on Ways and Means. So successful was he in the performance of his task and in convincing the members of Congress of the merits of drafting aid that congressional drafting services were in fact established by express provision in the Revenue Act of 1918.<sup>27</sup> As Mr. Frederic

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25. For general discussion of the Fund's work in its early years, see, *e.g.*, Parkinson, *supra* note 16; Axman, *Background of a Life Insurance President*, *The Eastern Underwriter*, Feb. 25, 1938, p. 3; and the Reports of the Dean of the School of Law, Columbia University, for the years 1911, 1912, 1914, 1916, 1917, 1919, 1928, 1929 and 1932. See also GOEBEL, *A HISTORY OF THE SCHOOL OF LAW, COLUMBIA UNIVERSITY* 256-8 (1955).

26. Lee, *The Office of the Legislative Counsel*, 29 COLUM. L. REV. 381 (1929). The author of the cited article, Mr. Frederic P. Lee, is a former Legislative Counsel to the Senate.

27. 40 STAT. 1057, 1141-2.

P. Lee puts it, the "Columbia demonstration had been successful where theoretical advocacy had failed."<sup>28</sup> Mr. Beaman was asked to stay at the Capitol as first legislative draftsman, or, as he was later styled, Legislative Counsel,<sup>29</sup> for the House of Representatives. He held this post for more than thirty years thereafter. Mr. Parkinson was invited to, and did, serve as first head of the Legislative Drafting Service on the Senate side.<sup>30</sup>

Following its great role in the creation of the Office of Legislative Counsel in the Congress, the Fund continued its productive work of earlier years. Three illustrations should suffice to demonstrate the point. The first is the major part played by the Fund in the preparation of Federal Longshoremen and Harbor Worker's Compensation legislation. A 1933 project provides a second example of unusual character. In that year Director Chamberlain and Professor Noel T. Dowling devised a plan and drafted a bill providing for conventions in the states to act on proposed amendments to the Federal Constitution.<sup>31</sup> There was at that time no law providing such machinery in any state. The bill had a large influence on the laws ultimately adopted by many states. A final notable example is Director Chamberlain's service as Counsel to the New York City Charter Revision Commission. The present City Charter is in good part a monument to his labors.

Among the projects of importance in the last few years have been such diverse undertakings as: a Model State Witness Immunity Act prepared in 1952 for the American Bar Association's Commission on Organized Crime;<sup>32</sup> a study and revision of New York's statutory provisions relating to the sentencing of minors, prepared for the New York State Department of Correction;<sup>33</sup> a Model State and Regional Planning Law, prepared for, and published in 1955 by, the National Municipal

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28. Lee, *supra* note 26, at 386.

29. In the Revenue Act of 1924, the Legislative Drafting Service earlier established was renamed Office of Legislative Counsel. 43 STAT. 253, 353.

30. Mr. Parkinson left this post in 1920 to become a vice-president of the Equitable Life Assurance Society. He was president of the Society from 1927 to 1953 and chairman of its board from 1953 to 1954.

31. See, on this general subject, Dowling, *A New Experiment in Ratification*, 19 A.B.A.J. 383 (1933).

32. FINAL REPORT OF THE AMERICAN BAR ASSOCIATION COMMISSION ON ORGANIZED CRIME 157-186 (Sept. 2, 1952). See also HANDBOOK OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS 251-273 (1952).

33. N.Y. Laws of 1954, c. 803.



League; and an Interstate Compact on Juveniles, prepared under the sponsorship of the Council of State Governments.<sup>34</sup>

Today the Fund, in addition to its Atomic Insurance Project mentioned earlier and a forthcoming study of Arms Inspection and American Law, is executing one of its most ambitious drafting assignments in some years. With the support of government and foundation funds, it has embarked upon a comprehensive revision, both in form and substance, of the public health laws and regulations governing the City of New York. It is estimated that at least three years will be required for the completion of this revision, which it is hoped will produce for the largest city in the world a code reflecting, in effective form, the best thought and most recent advances in the field of public health.

#### *Envoi*

Enough has now been said, it is hoped, to give some idea of the Fund's nature and work and — more significantly — to suggest some of the potentialities of legislative drafting in a law school setting. Perhaps others may be encouraged to take up the work. There is more than enough for all hands.

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34. See, e.g., N.Y. Laws of 1955, c. 155. A number of other states have approved this compact.