following Burton's retirement, as clerk to Potter Stewart before returning to Chicago in 1959 to practice. Two years later he accepted a professorship at the University of Minnesota Law School which he retained until coming to Michigan.

Sandalow's primary non-professional activities, both in Chicago and Minneapolis have involved civil rights and civil liberties. He has been an active member of the American Civil Liberties Union, serving as Vice-President of its Minnesota Branch, and a member of the Minneapolis Commission on Human Relations. Among the cases in which Sandalow participated for the ACLU are Times Film Corp. v. City of Chicago, in which the ACLU unsuccessfully urged the invalidity under the First Amendment of a motion picture censorship ordinance, and In re Jennison, in which the ACLU successfully asserted the constitutional right to refuse, on religious grounds, to serve on a jury.

Here at Michigan, Sandalow will be teaching Municipal Corporations, The Federal Courts and the Federal System, Public Control of Land Use, and a section of the freshman course "Introduction to the Legal System." He is taking a different approach to this course by exploring the process of decision-making by courts and legislatures, rather than stressing the historical development of the law.

Currently, Sandalow is Assistant Reporter for the American Law Institute Project on the Public Control of Land Use and Development, the purpose of which is to draft model enabling legislation for adoption by state legislatures. "Present-day legislation dates back to the Standard Acts prepared under the auspices of the Department of Commerce in the 1920's," he explains. "Experience under these Acts and the changes in urban America since that time have made a revision of the legal framework both advisable and timely."

He points out that the Standard Zoning Enabling Act contemplated the division of each urban area into districts, some for residential use, others for business activity, and still others for industry. "In recent years, however, there has been a stress on the mixture of land uses rather than their separation, a technique which the Standard Act did not contemplate, and for which, consequently, it did not provide an adequate legal framework."

In addition increased migration into suburban areas and the proliferation of special districts in the years since World War II have brought to the fore problems only dimly perceived when the Standard Acts were drafted. Consequently, Sandalow explains, "existing legislation is inadequate to cope with the consequences of the fragmentation of governmental power characteristic of the nation's metropolitan areas. The system not only permits, it encourages each local government to act without regard for the impact of its policies on those who reside beyond its boundaries. The result has often been the sacrifice of the larger public interest to the short-range goals of each community."

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Paul Carrington Heads Circuit Court Study

Are United States Courts of Appeals obsolete in their present form?

This is the question Professor Paul D. Carrington will try to answer as project director for a study of federal circuit courts, conducted under the auspices of the American Bar Foundation and financed with a $34,800 endowment from the American Bar Association.

"The federal appellate courts are overcrowded and overworked," observes Professor Carrington. "Although Congress has this year created ten additional circuit judgeships, this is not enough to meet the present demand for services. The workload has almost doubled since 1960, largely because of a rather puzzling rise in the rate of appeal. If the load continues to increase, there will soon be tremendous backlogs in most circuits. This will force the Courts of Appeals to become less and less deliberative; the quality of the process is in some jeopardy."

The study will give consideration to various solutions to the congestion. "One possibility," explains Carrington, "is to create more circuits, but the parochializing effect would be considerable, because the judicial business of the United States tends to be located in a few big districts."

"Another approach is to attempt to change the habits of circuit judges with respect to their use and creation of precedent, with a view to achieving greater national harmony. This seems unrealistic."

"A third approach would be the creation of specialized Courts of Appeals. The difficulties in this approach are the familiar dangers of expertise, particularly as they apply to the increasingly significant burden of criminal convictions which must be reviewed."

"Finally," notes Carrington, "there is the unattractive prospect of a fourth level, which would appear to place a heavy burden on federal litigants. Despite its initial lack of attraction, the difficulties associated with this last approach may prove to be the most tractable."

"Whether a patchwork of palliatives can meet the problem for the next decade or so depends on what happens to the rising demand curve. If it continues to rise," warns Carrington, "the bailiwick approach is doomed. We will have to reconsider the ability of the present structure of the federal courts to meet our needs. This should not come as too great a surprise. The Judiciary Act of 1925 was the last major revision, and it has survived longer than any major judiciary act in our history."
“As Frankfurter and Landis observed, in their classical commentary on that Act, 'judiciary acts, unlike great poems, are not written for all time. It is enough if the designers ... meet the chief needs of their generation.'” Professor Carrington feels “... that the present design is not suited to accomodate another seventy-five circuit judges, and a twenty-judge circuit would be a disjointed and ineffective enterprise. The en banc procedure which presently serves with difficulty to keep a smaller group of judges in step would be overwhelmed. Although the Judicial Conference has suggested a limit of nine judges per circuit, Congress has temporarily gone beyond that limit for the Fifth Circuit, but,” points out the project director of this important study, "surely Congress cannot go far in this direction if we expect to preserve any semblance of stability in the national law.”

Robert Knauss to Study Securities Regulation and Capital Formation

A research project of considerable dimension and great potential importance has been launched by Robert L. Knauss, Professor of Law. The project, to be financed jointly by the American Society of International Law and the University of Michigan Law School, will be concerned with the effect of securities regulation on capital formation.

The regulation of securities, extensive in this country, is virtually nonexistent in the whole of Europe, with the limited exception of England and Belgium where some government regulation is present.

One of the underlying hypotheses of the study is that the regulation of securities in the manner undertaken in the United States is productive of many positive aspects relating to the formation of capital, despite the presence, as well, of some negative aspects. Disclosure requirements do increase investor confidence, regulations of the trading markets do encourage trading by individual and institutional investors and the broad availability of market data and the various other regulatory factors do promote a free and open market. The ultimate effect of these aspects of regulation, it is believed by Professor Knauss, is the promotion of risk capital availability and the creation of market liquidity—in short, the free flow of capital.

The project takes a different approach to security regulation, which in the past has been studied primarily from the viewpoint of protecting the investor from fraud. While such remains an important function of regulation, it is thought that evaluation from the opposite viewpoint will reveal that regulation performs a broader function in the realm of capital formation. Hopefully, the critical evaluation of regulatory patterns will make it possible to suggest policy lines in this area.

An important aspect of the study will center on the flow of private capital between countries and the extent to which regulatory factors discriminate against foreign companies and foreign capital. The problems in this area are not only of particular importance in the U.S. and in the Common Market nations, but also in the less developed countries as well. Within one country the free flow of capital thought to result from some degree of security regulation will tend to put a premium on efficiency—those companies which are most efficient will attract capital at the lowest rates. Otherwise, serious distortions in capital distribution are present with resultant harm to the economy in general. The same principle would seem operative on an international level.

Security regulation is, of course, but one factor affecting capital formation. Others, such as direct government control on capital allocation; exchange controls; indirect government control through tax, fiscal and monetary policy, and public spending; government promotion of financing through its loans and guarantees; corporate law factors and the like, must be considered. The study will investigate these factors, initially, however, only to determine their relative importance in capital formation.

If the underlying hypotheses of the Knauss study can be demonstrated to an appreciable degree, it is to be expected that the regulation of securities might well become a factor of business life in Europe as well as other world markets where the raising of private capital is undertaken to any significant extent.

To Professor Knauss, the opportunity to undertake such a study is but another step in his already considerable concern with the area of securities and their regulation. His teaching career at Michigan, begun in 1960, has centered around the subject. He developed the Investment Securities course (concerned with the Securities Act of 1933), which he teaches along with a seminar dealing with the 1934 Securities and Exchange Act. In 1962–63, he served as Legal Consultant to the Securities and Exchange Commission, and helped prepare the “Special Study of the Securities Markets.” He co-edited (with Professor Conard) the Business Organizations casebook (1965), co-edited the book Financing Small Business (1966), and is Editor of the Securities Regulation Sourcebook (1965).

Professor Knauss spent this past summer in New York City gathering secondary materials, interviewing brokers and attorneys and in Washington, D.C. interviewing members of various government agencies. He will depart in January 1967 for Europe where he will work on the international aspects of the study through August, 1967. In October, 1966, the American Society of International Law invited a small number of experts from universities, the government and the investment community to meet with Professor Knauss to hear his research plans and discuss problems in the area.

A more formal international conference is tentatively set for the Fall of 1967. The project is obviously of long range proportions, but initial reports are expected to appear beginning in late 1967.