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Introduction to Second Panel Discussion: Proceedings of the Special Committee on Electronic Data Retrieval

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proceedings...

PROCEEDINGS OF THE SPECIAL COMMITTEE
ELECTRONIC DATA RETRIEVAL
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In addition to those reprinted in this issue, the 1962 Proceedings include the following papers which have appeared in prior issues of M.U.L.L.:

December 1962:
Introduction, F. Reed Dickerson, 62D-244
Indexing—Achilles Heel of Legal Research? Charles K. Cobb, Jr., 62D-245
New Frontiers of the Legal Technique, John C. Lyons, 62D-256

March 1963:
Project Lawsearch—a Non-Electronic Approach to Law Searching, William H.B. Thomas, 63M-49
Electronic Aids to Estate Planning, Carl G. Paffendorf, 63M-54

Introduction to Second Panel Discussion
by Professor F. Reed Dickerson
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For many years, a number of jurispruders, some of whom call themselves "legal realists," have been telling us two important things. First, that the law is essentially a prediction of what judges are going to do in specific controversies. Second, that in making such predictions lawyers are more interested in how judges actually respond to particular kinds of controversies than they are in the judges' own descriptions of how they respond. Such descriptions are, of course, the kinds of statements of law that have so often been reflected in the law treatises.

In May, 1962, at the Second National Law and Electronics Conference held at Lake Arrowhead, two gentlemen, one a professor of political science and the other a patent lawyer, described possible methods for using mathematics and computers to assist in predicting or guiding judicial decisions.

Because this seemed to promise a more scientific and efficient way of doing what the legal realists have been telling us is our main
job, you might have expected that these two gentlemen would have been received with open arms, at least by the legal realists. Instead, several of the attending jurispruders, who I suspect would be happy to be classed in that group, reacted somewhat as members of the DAR would to two proponents of communism: The holy processes of the common law were being subverted.

Frankly, I was surprised at their reaction and I am now convinced that much of it was due to the lawyers’ widespread fear of anything mathematical or mechanized. On the other hand, I am also convinced that this fear can be reduced to more wholesome proportions by a fuller acquaintance with actual capabilities and limitations of modern mathematics and technology.

To assist us in this objective we are fortunate in having with us both of the gentlemen to whom I referred. We are also fortunate in having a distinguished judge to straighten them out if they seem to get out of line.

Their topic will be Using Computers to Predict Supreme Court Decisions, and let me hasten to add that, like most titles, it is incomplete. It fails, for instance, to cover the use of the same techniques, not to assist in the prediction of judicial behavior, but to serve the judge as a sort of mechanized consultant in applying the principles of stare decisis.

A QUANTITATIVE RESTATEMENT OF LEGAL RULES

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University of Connecticut

Various areas of adjudication are controlled by rules of law which make the decisions of cases dependent on unspecified combinations of specified circumstances. Although such rules of law are not limited to the field of American constitutional law, it is understandable that rules of constitutional interpretation which have this characteristic will readily attract attention. The fair trial rule, which has been used by the Supreme Court of the United States in determining the requirements of the due process clause of the Fourteenth Amendment for state criminal procedure, is such a rule of law. According to this rule, some combinations of the personal circumstances of the defendant and the procedural circumstances of the case constitute a denial of due process, and consequently call for a decision in favor of the defendant. However, other combinations of such circumstances do not amount to a denial of a constitutional right, and therefore require a decision against the defendant, i.e., against the petitioner before the Court. The rule specifies a general set of controlling circumstances, but it does not specify which