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### Walter Blum Tributes

Joseph Isenbergh

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## Walter Blum

*Joseph Isenbergh*†

It is common, even the norm, to know of someone before knowing him. It will come as no surprise that I had heard much and often of Walter Blum before I ever met him. More noteworthy, though, is that my advance knowledge was generic rather than specific. Walter Blum existed for me, before I came to Chicago, as part of a group of academics who were identified by the world at large as the living, breathing embodiment of the University of Chicago. There are many names associated with the University of Chicago. Milton Friedman and Saul Bellow come to mind, along with a host of others, as charter members of the University of Chicago pantheon. But since I was a lawyer, and thought by my friends as destined eventually to teach law, it was the primeval figures of the law school that most often surfaced in various hopeful reveries about the University of Chicago.

A composite took shape in my mind among the denizens of the University of Chicago, known as Levi-Meltzer-Blum. That these should be the names that spelled Chicago for me was further abetted by a prenatal fortuity. My father was a writing instructor at the law school in 1939 and came to know Edward Levi, then teaching at the law school, Bernard Meltzer, then a recent graduate of the law school, and Walter Blum, then a student at the law school (indeed at one time a student of Edward Levi's). Levi-Meltzer-Blum made an enormous impression on my father. Ever since, when the University of Chicago is mentioned within earshot, my father immediately intones that it is a uniquely wonderful place because it has Levi-Meltzer-Blum, whom he then proceeds to extol in terms normally reserved for his own family.

Everywhere it was the same. I mentioned Levi-Meltzer-Blum to a young lawyer who had recently graduated from the college and the law school, and he responded "Well, they *are* the University of Chicago," then added (revealing the kind of oedipal feelings that the University of Chicago seems to inspire in its own) "and it will doubtless be a surprise to them to discover that they cannot devise

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the University of Chicago in their wills, . . . unless maybe they can.”

When I came to teach at the University of Chicago in 1980 Levi-Meltzer-Blum were there, walking among the mortals, and of course fully differentiated as individuals. One clue, however, to their Olympian stature was the legends surrounding them. Myths—or student rumors if you prefer—are the hardiest perennials in any law school, but Levi-Meltzer-Blum were set apart by the sheer number of tales that swirled about them. Some stretched or ignored manifest fact, others made light of the laws of arithmetic; all had in common the intensity of the identification of Levi-Meltzer-Blum with the University of Chicago. The three were born in Hyde Park on the same day. They had attended the same schools from nursery through law, under the single wing of the University of Chicago. They had married three twin (!) sisters. Another member of the faculty had married one of their daughters (and of course the students chose for this particular fable one who has no daughter). I learned one thing about student rumors: they cannot be eradicated by any direct method, because they are a matter of culture rather than abstract belief. No clarification, and least of all objective truth, has much effect. Students create their myths from the presences they feel most intensely. And those were Levi-Meltzer-Blum.

One especially persistent rumor in my first few years at the University of Chicago was that Walter Blum was my uncle. No doubt the rumor rested on the perception (correct in itself) that I needed and received much avuncular attention from Walter. From there the nepotic corollary proceeded inexorably. Students sometimes asked me if Walter was my uncle, but more often simply referred to him in conversation with me as “your uncle,” thereby sparing me the embarrassment of making the denial that I apparently felt compelled to make and in which the students saw some strangely atavistic need to deny my own family. The rumor faded as suddenly as it had appeared, however, when I decided to surrender to it. I began referring to Walter as “Uncle Walter” and smiling enigmatically when asked of the kinship between us. Within weeks our genealogy had gone the way of such concerns as the national malaise of the 1970s or the moral equivalent of war.

That Walter is not my uncle therefore no longer needs saying as a matter of record, but is worth noting nonetheless to underscore that my regard for him owes nothing to family piety. Walter Blum, who has been teaching tax courses at the law school since 1946, is a human dynamo with an unquenchable appetite for all

that is within the broadest intellectual orbit of taxation. I was and remain astonished at the speed with which Walter's mind absorbs everything from the talmudic niceties of specific tax conundra to the shape that political bargains take in the tax system. In my first year at the University of Chicago I sat in on Walter's course in income tax, and found that (mentally at least) I could answer about half the questions he asked. Probably if I had had to speak the answers out loud, my percentage would have fallen to that of the students, about 10%. It was like viewing the tax system through the window of a high-speed train. What amazed me most was how clear the details were, despite the speed at which they passed by.

The students, as I, were awe-struck. A few found relief in the perversely anachronistic observation that Walter seemed to have gotten many of his ideas from Marvin Chirelstein's book on income taxation (a deservedly popular Baedeker aimed at steering law students through the shoals of the tax system). Here too, their genealogy was askew, in this case reversed. Professor Chirelstein was a student of Walter's at the University of Chicago, at a time when Walter was giving a new shape to the study of income tax in law schools.

When Walter joined the faculty of the law school in 1946, taxation as a law school subject was treated as a minor offshoot of constitutional and administrative law. The boundaries of the federal taxing power and the taxing power of the states were pondered at great length. The venerable case of *Eisner v. Macomber* was interminably parsed as the fountainhead of knowledge on the nature and realization of income; fruit and tree were the informing metaphor. That was the tax world as Walter found it. Within a few years, he was teaching what we now know as the modern income tax course, its intellectual contours entirely reshaped. The study of income tax in law school has become an excursion into an important pocket of the human acquisitive urge, laced with some economics, finance, and psychology. Both the political process and the marketplace are revealed as the battleground of the fiscal struggle between the collectivity and its several members. The time value of money is unmasked as the major stake in the contest, as well as a central determinant of whether people will be led to produce or consume and in what ways. Law students (whose mythology has not yet caught up with the reality Walter helped bring about) are often surprised at how intellectually engaging they find the subject. They would have less to wonder at if Walter (and, one must allow, Stanley Surrey and Boris Bittker) had been satisfied to leave

the subject of income taxation as they found it. By thinking about tax in a way different from the way lawyers had done until then, Walter changed the way lawyers think about tax.

The occasion for this piece is Walter's retirement. Or so they say. The students won't know it, since Walter will continue to teach and, one imagines, to hurtle like an express train along the tax landscape. Nor would I have known it if I had not been told, since I expect to find Walter, as always, one floor above and two steps ahead of me.