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Victims of Crime and Other Victims

Walter J. Blum

This is an era in which many observers of the social scene claim to have the ability to detect precisely when the time for some idea or other “has arrived.” Recently we have been let in on the revelation that the time has arrived for the states to provide compensation for the victims of crime. Some half dozen states have already taken steps to validate the insights of the modern seers, and others (including Illinois) are being pressed to get into line with the times. I find neither the prophecies nor the arguments of proponents to be irresistible.

Let me begin with a hypothetical situation which should appeal to those who favor compensating victims of crime. A thirty-five year old free-lance male typist, who is the sole support for his wife and two young children, is pushed to the ground at a street corner by a dope addict attempting to rob him of a wallet. The victim’s head unfortunately strikes the concrete curbing, and despite the best efforts of doctors, he loses the use of his right arm forever. Because of the injury he is hospitalized for a month, he incurs large medical expenses and he never afterwards is able to perform work which is as remunerative as his old specialty. To make matters worse, the victim has no insurance covering his out of pocket expenses or loss of earnings, and he and his wife in fact use up all their savings to pay the medical and hospital charges.

This surely is a case which elicits strong sympathy for the victim. Many things can be said for giving him financial aid. The misfortune was not due to his carelessness and he did nothing to attract the criminal assault. If society had provided better police protection the attack might never have occurred. If society had spent additional resources on treating dope addicts the assailant might not have felt compelled to embark on robbery. If society had better educated the young about the consequences of getting hooked on drugs, this crime might not have taken place. Further, if the victim is not compensated for the economic loss due to the crime, his family—and especially the children—will suffer. The details of that deprivation are easily imagined. Only one with a heart of stone, it might appear, could be indifferent to the downfall of this poor fellow.

But before rushing to endorse a plan for compensating him out of public funds, the plight of some other victims of misfortune should not go unnoticed. I suggest that account needs to be taken of at least the following eight individuals, each of whom fits exactly the description of our victim of crime—in terms of age, family status, occupation, medical expenses, loss of income, and so on. To make the comparisons more vivid, let it be emphasized that each of these persons permanently lost use of his right arm as a result of striking his head against the very same concrete curb that undid the victim of crime.

1. Mr. A fell down as a result of a shove from a policeman who was chasing a suspected robber. The

A presentation by Walter J. Blum, Professor of Law at the University of Chicago.
A policeman was acting in the line of duty and was not being careless in administering the slight shove to A, who unknowingly was in his way.

2. Mr. B went down as a result of being bumped by an unidentified cyclist who was peddling negligently and who fled the scene of the accident.

3. Mr. C was decked by a cyclist who, though careful in all respects, swerved into C to avoid running down several children who suddenly emerged in his path.

4. Mr. D was struck and felled by an admittedly negligent cyclist who was wholly impecunious and without liability insurance.

5. Mr. E was sent sprawling by an eight year old boy who was running into the street under circumstances that did not expose his parents to liability for a tort.

6. Mr. F came in contact with the curb when he lost his balance as a result of stepping into a hole in the city street. The hole could not possibly be seen by one in F's position, nor could the municipality be held derelict in not maintaining the street in good repair.

7. Mr. G met his fate as he reached out to grab a young child in an effort to prevent her from being struck by a car rounding the corner. All eyewitnesses agreed that G was acting as a Good Samaritan when he stumbled.

8. Mr. H crashed down when he lost his balance after being momentarily seized with sudden spasms of a painful and non-recurring nature.

Two other individuals, who also match the specifications associated with our victim of crime, should be mentioned, although neither suffered his arm impairment from knocking his head against a concrete curb.

9. Mr. I permanently lost use of his arm at age thirty-five as a consequence of a stroke.

10. Mr. J was struck by lightning and thereafter never again had use of his arm.

Now I ask: among this collection of unfortunates, are you sure that the victim of crime presents the most appealing case for compensation by the government? All are equally blameless for their misfortune. But if anyone is to be given an edge, it is the Good Samaritan who stands out. He alone was acting out of motives of high altruism. The others, we may assume, were going about their business or their pleasure. Surely if we were thinking of awarding an official medal for exemplary conduct, the Good Samaritan would be the most deserving recipient.

Of course it can be argued that the Good Samaritan brought the tragedy on himself by taking positive steps. Such a stance is highly superficial. The man who stepped into the hole also did something positive; and the same can be said for all those who had put themselves in a position of being vulnerable to making head contact with the curb by standing near it. In this respect the victim of crime is no different than the others.

This observation sets the stage for a more basic question: Can you offer any valid reason for using public funds to pay the victim of crime but not the other sufferers? Several possible lines of thought call for comment.

First there is the point that society is much to blame for the tragedy because of its inadequate response to the policing and dope problems. If society is unwilling to allocate more resources to dealing with these matters, ought it not compensate the particular individuals who, by chance, are the victims of crime? In a sense a program for such compensation amounts to spreading these losses among taxpayers generally instead of letting them remain on the unfortunate few who suffer the losses.

This approach, however, does not provide a sound basis for preferring victims of crime over the other victims. Even optimal police protection—to say nothing of maximum feasible police protection—would not eliminate all crimes. More police (and more attention to the whole dope problem) are likely to
reduce the incidence of certain crimes, but elimination of crime is not a sensible or attainable target. Today, moreover, there is no ground for thinking that society’s parsimony is greater in respect to crime control than in other areas of life marked by victims of misfortune. There would be fewer holes in streets if more resources were allocated to street repair. There would be fewer collisions of cyclists and pedestrians if special paths were built for riders. There would be fewer children running into the streets if more playgrounds were provided. There would be fewer serious injuries from falling down on curbs if they were covered with rubber. And so on. Resources are scarce; and it should be clear that police protection cannot have first call on everything.

Next there is the point that the victim of crime could not have avoided the encounter with his assailant. It, too, is of limited weight. The fact is that the density of crime varies greatly from place to place. One is much less likely to be a victim of crime in a rural area than in a metropolis; and one is much more likely to be a victim of crime in some parts of the city than in others. Those who advocate compensating victims of crime really are not interested in the matter of avoidability. They would not confine payments to persons who were in low crime areas when injured. Indeed, it is likely they would contend that the victims most in need of compensation are to be found in places of highest crime density.

Then there is the point that the injury and economic loss from a criminal assault is usually sudden and unexpected, and therefore highly disruptive of life plans. The response to this is obvious. The other victims experienced their misfortune with equal suddenness, and the occurrence was equally unexpected. Each of those injured on the curb was running the usual risks of being out on the street in our society. All the victims might have been aware of the dangers to which they were exposed, but no one of them, in all likelihood, thought he would suffer the particular misfortune which did in fact occur at that particular time and place.

There is also the point that it is difficult to buy insurance covering personal (including economic) loss from crime. The most direct answer is that the assertion is misleading. Policies dealing exclusively with injuries attributable to criminal assault no doubt are rarities. However, neither the usual varieties of medical and hospital insurance nor the standard versions of accident insurance exclude such coverage. It is true that most victims of crime are uninsured, especially for their economic losses. But it is equally true that most victims in the other categories are also unlikely to be insured.

Finally there is the point that victims of crime should be compensated by the state because they, unlike the other classes of victims, are often called upon to surrender much time in cooperating with the police and in serving as witnesses in court. It is said that in doing so they assist society in dealing properly with dangerous assailants and thus they merit compensation. Such reasoning is spurious. If devoting time to the legal process, by acting as witness or otherwise, is a sound ground for receiving compensation, a system of payments should be set up which carries out that underlying premise. Such a system should not be confined to victims of crime, nor should it pay crime victims who are not called upon to spend time on legal matters. The fact is that there is very little overlap between the universe of those who are drafted into the legal process and the universe of those who are victims of crime.

All things considered, it is hard to locate any cogent reason for singling out the victims of crime for special treatment. Each of the victims of differing misfortune seems to present an equally good case for being compensated by the state. At this

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The Burger Court Shows its Stripes

Philip B. Kurland

had several notions about the content of my remarks for tonight, none of them any good. At first I thought I should simply read to you the communications I have received from Dan Polsby, for they are erudite, amusing, and relevant. I rejected this, however, for whatever the merits of bringing coals to Newcastle, bringing the wit of Polsby to Minnesota would surely be an act of supererogation.

My second idea was that I should speak on the subject of Charles Reich’s *The Greening of America*. Indeed, I had the title and the approach ready at hand. I was going to call the talk, *The Browning of America*, and I was going to demonstrate that Charles Reich was in the great tradition of Robert Browning, as an optimist who could put the best face on the worst situation. But I soon realized that my recitation of Browning’s poetry would probably make you sick and my reading of Reich’s prose would make me sick. And so I retreated to a position generally regarded as heretical among after-dinner speakers. I decided to offer a few remarks on a subject about which I have a smattering of knowledge, or at least familiarity. At the outset I should warn you that however these remarks may appear to you, I do not intend them to be humorous or even entertaining.

Talk delivered at the annual dinner of The University of Minnesota Law Review, on Friday, 7 May 1971 by Philip B. Kurland, Professor of Law, The University of Chicago Law School.
Court” until Mr. Justice Blackmun replaced Mr. Justice Fortas. Blackmun is no less essential to the apparent changes that are occurring than is Burger.

Even so, there is or should be something disturbing about the proposition that a watershed in constitutional jurisprudence should be marked not by changes in constitutional text nor by changes in the social conditions that give rise to the problems to which that text is purportedly applied. The changes are rather clearly the result of a change in the personnel charged with explication of that basic document. Certainly if the meaning of a constitution is as fluid as the personal whims of the Court’s membership would make of it, it is really no constitution at all. A set of principles purportedly setting bounds for government action and allocating governmental authority within those bounds is meaningless if nine Delphic oracles are permitted to divine its meaning and state it anew each time a question is proposed for resolution. No less so when those modern oracles speak with the same lack of clarity and with the same obscurity that marked the efforts of their famed predecessors, the Greeks that is. Mr. Justice Frankfurter once asserted: “We do not sit like a kadi under a tree dispensing justice according to considerations of individual expediency.” Perhaps he would have been more accurate if he had spoken in normative rather than descriptive terms.

On the other hand, if the Constitution is no constitution at all, if it is dependent for its meaning upon the whimsy of its expositors, it is equally clear that a Constitution framed in one age, assumed to have a fixed and unalterable content, except as changed by constitutional amendment or revolution, is not likely to remain viable in a totally different era.

On the one hand there is the demand for rigidity, for adherence to what is known euphemistically as the “intent of the Framers,” for the alleged “absolutes” that inhere in the words of the Constitution. On the other hand, the demand . . . for flexibility, for the adaptation of the “central meanings” of the Constitutions to the times in which they are being applied, for a “living Constitution.” These competing concepts have resulted in calls for the Courts to adhere to one pole or the other. Especially today when polarity accounts for so much of our political life.

For many there is no other possibility than a mechanical application of fixed rules to determined facts. These are the “strict constructionists” of the kind that President Nixon thought he was appointing to the Court. For others, the only possibility is a complete discretion on the part of the Court to express the personal values of the incumbent justices. These are the neo-realists of our day. As to both groups, I think it appropriate to repeat a remark I made with reference to a recent Harvard Law Review article by Judge J. Skelly Wright: “Only for the simpleminded are all things simple.”

There is a way—however discredited by modern psychologists and sociologists—for reconciling the need for change with the need for stability in constitutional construction. The means are the means of reason derived from experience. A court, and particularly the Supreme Court, cannot mechanically apply earlier solutions to contemporary problems and still fulfill its role in the scheme of American government. If, however, the Court is to depart from its earlier notions as to the meaning of the provisions of the Constitution, it ought to be able to explain why it thinks that such change is appropriate or necessary. It may be that an earlier rule is believed to have been erroneously formulated. If so, the Court ought to be able to say why. And when it does say why, it ought to do so honestly and not disingenuously or fraudulently. This has been the burden of my complaint over the years about the Warren Court. To ignore earlier decisions or to distort them—as has so frequently been done—is to fail the function for the performance of which the courts have been given their independence from the political realm. To issue edicts rather than reasons is to betray the ideal to which courts should aspire.
I have put forth my creed or screed, however you will have it, in order to suggest that the Burger Court’s efforts cannot and should not be measured against that chimera that was President Nixon’s standard for judicial competence. There is and can be no “strict construction” of the grand clauses of the Constitution. Perhaps one can say that the $20 stated to be the dividing line in the Seventh Amendment on civil jury trials can be strictly construed. Yet one wonders whether such strict construction would treat $20 in 1787 as the same as $20 in 1970 or measure it in terms of purchasing power equivalents for each period. Certainly, however, with the terms due process of law, the equal protection of the laws, privileges and immunities of citizenship, cruel and unusual punishments, unreasonable searches and seizures, and so on, there are no strict constructions only historical ones. And, Mr. Justice Black to the contrary notwithstanding, what is true of the ambiguities of the Fourteenth Amendment is not less true of the so-called absolutes of the First. Ambiguities are to be found even in the First Article’s description of the qualifications for electors, as Black’s dominant but unpersuasive opinion in the Voting Rights Cases of this Term makes abundantly clear.

The changes in Supreme Court jurisprudence that have already been revealed by the Burger Court are attributable to different causes than “strict construction.” Essentially, the two new votes have changed a Warren Court minority into a Burger Court majority. Warren and Fortas were taken from one wing of the Court and Burger and Blackmun were added to the other. The result, however, has not been overruling of the Warren Court’s major decision. Instead the Warren Court momentum has been brought to a screeching halt. Whatever the media may have reported, Miranda has not been overruled by Harris. The new case on bastards’ rights to inherit (Labine) did not overrule the old one on bastards’ rights to sue for wrongful death (Levy). The earlier nationalization cases denying Congressional power to prescribe loss of citizenship have been left intact by the more recent decision sustaining a legislative authority to qualify citizenship on a period of residence. Reitman v. Mulkey has not been reversed by the more recent approval of that Progressive era panacea, the referendum. True, it is likely that none of the aforementioned cases would have been decided the same way by the Warren Court, which would also have probably imposed standards for instructions to juries authorized to fix the death penalty, and would have more readily interfered with the criminal jurisdiction of the state courts. Nevertheless, it is one thing to say that the Burger Court has not been prepared to honor promises implicit in Warren Court opinions, still another to say that it has overruled the earlier Court’s precedents.

Perhaps one of the reasons that the earlier promises need not be kept or cannot be kept is that they were set out in opinions that failed to provide rationalizations for their conclusions. Who can say that Reitman v. Mulkey, California’s “Proposition 14 case,” commanded a different conclusion in this Term’s public housing referendum case, when the most ardent supporters of the Reitman decision cannot tell you on what ground it properly rested?

The essential difficulty in the Reitman situation is that “substantive equal protection” is not a principle, it is an excuse for the absence of one. It is no more than an expression of personal preferences by each of the Justices. To that extent, Reitman v. Mulkey justified rather than inhibited the Burger Court in approving the requirement of a referendum on public housing. “Substantive equal protection” is, no less than “substantive due process” upon which the Warren Court looked with such disdain, a license not a principle. The absence of rationales for the conclusions in the earlier nationalization cases again did not preclude but permitted the Burger Court to hold valid a Congressional require-
ment for residence in this country in order to complete the citizenship of a person born abroad of American parents.

Each of the decisions to which I have adverted was certainly consistent with the holdings and the rationalizations, such as they were, of the earlier opinions. Each of the decisions to which I have adverted was also inconsistent with the spirit of the earlier decisions. Certain prime values that dominated the Warren Court, no longer have the ascendency in the Burger Court. Denigration of state power is no longer an end in itself. Equality is no longer a magic word compelling a conclusion. The Court has, in part at least, abandoned its role as maker of a criminal code for the States to follow. The legislative voice—both state and federal—is once more to be given credence, perhaps even when it is inconsistent with the predilections of the Justices themselves. In just one place, and even there on only a grudging basis, has the Burger Court advanced the Warren Court principles beyond the boundaries earlier established. In the North Carolina school integration cases, it has ordered integration, by busing if necessary, to eliminate state-created segregated public schooling. The unanimous decision here is a model of caution, resolving no more than necessary. But it did, at least, reveal the independence of the two new Justices from the political goals of the President who appointed them.

The Burger Court has effected one other change of some importance. It has already changed the Court’s aficionados into the Court’s critics. Suddenly an institutional value has loomed on the horizons of those who carefully avoided seeing that value when the Warren Court was in its ascendency. Suddenly those who had rejected Mr. Justice Frankfurter’s standards for judicial behavior as the carping of a pedant now demand that the Burger Court adhere to those standards. Witness a recent column by Anthony Lewis in The New York Times. Anthony Lewis, who applauded the reapportionment opinions, the nationalization cases, the right to counsel cases, etc., without any regard to the absense of reasons to support the conclusions, as Mr. Justice Frankfurter pointed out in cogent dissenting and separate opinions, suddenly charges the Burger Court with a failure to adhere to Frankfurter’s standards. Thus, Lewis said in a recent article on the Bellet case that concerned the citizenship of children born abroad of American parents:

That is the result of reading the Constitution of the United States as if it were a bill of lading. As always, thoughtless analysis makes bad law.

It is sad to imagine what Felix Frankfurter would have thought of all this. Justice Frankfurter believed passionately that the Supreme Court should allow Congress broad power to lay down rules for citizenship. But he also believed it the Court’s duty to say honestly what it was about. Only by doing so, he thought—only by the attempt at intellectual persuasion—could judges justify their extraordinary function in American life.

Certainly Lewis is right about Frankfurter’s attitude. Certainly he is right in demanding that the Court now adhere to these principles, that principles have been disregarded for so long. Certainly he is wrong in expecting that the new Court will easily be dissuaded from indulging the bad habits of its predecessor.

In sum, we know that the Burger Court is a vastly different Court from the Warren Court. We know that the directions taken by the Warren Court will not be followed by the newly constituted Court. We know that the new Court will be more tolerant of state government power and of Congressional authority as well. We have no evidence yet that the new Court will afford principled opinions justifying its conclusions. Evidence to date suggests rather that they will emulate the Warren Court in this regard. We do not yet know what the new directions of the
new Court will be, to what degree they will overlap those of the Warren Court, to what extent they will reject those of the Warren Court. We do know that the professional Court watchers among the political scientists and law professors will be demanding a recognition of the institutional restraints that the Court should observe, just as these same critics discovered the desirability of the limitation on presidential authority when it was no longer wielded by Kennedy but rather by Johnson and Nixon.

In a book on the Warren Court that I recently published, I suggested problems that the Burger Court faces:

At the close of Warren's tenure, both the Supreme Court and the law were at low tide so far as public reaction was concerned. The Court's lack of prestige was reflected in the data published by the Gallup Poll. The disdain for the law was demonstrated not only by the FBI's crime statistics but by the behavior of all levels of American society. It is revealed no less in the actions of three presidents and five Congresses who have indulged a war not sanctioned by constitutional procedures and in those organizations and individuals who set themselves above the law.

We were, in the recent past, (as we still are) concerned about the "credibility gap" created by the executive branch when it became apparent that its words and the truth were not necessarily related. There is another credibility gap between the Court's pretensions and its actions. The restoration of public confidence is vital both to the continuance of the Court's powers and to the maintenance of the rule of law in this country.

The Supreme Court has been and must continue to be a strong force in the vital center that provides cohesion for a democratic society. The accomplishment of its mission is not measurable in terms of individual decisions. Its functions is to help maintain a society dedicated to the notion that law must be the choice over force as the means for resolving the conflicts that burden society. It must epitomize reason rather than emotion in helping seek justice.

Above all it must emphasize individual interests against the stamp of governmental paternalism and conformity. At the same time it must retain the confidence of the American people.

At the moment, whether because of their own efforts or because of the interpretations put on those efforts by the news media, the members of the Burger Court have not yet moved toward the reestablishment of the credibility of the judicial process. As of now, all change is ascribed to a new majority asserting different personal preferences from those asserted by the old majority. It is to be hoped, but it is not to be expected, that the Burger Court will eschew the methods of its predecessor rather than simply reject the former Court's rulings by the same inadequate reasoning that endangers the function that the Court is intended to perform.
Some Uneasy Reflections on the Calley Case

Bernard D. Meltzer

The Calley case and its aftermath have raised anguishing questions of conscience and responsibility, individual and national. It has brought together unlikely allies, such as Dr. Spock and Governor Wallace, who for different reasons are united in outrage. The range of reactions to this case is compelling evidence of our discord. An otherwise undistinguished lieutenant has been received as a hero, a scapegoat, and a mass-murderer—an aberration that is the military counterpart of the Manson murders, the penalty for which, by some grisly coincidence, was returned on the same day that the Calley verdict was rendered. The issues raised by the Calley verdict have understandably merged into, and are likely to be submerged by, larger issues. And, like other cases that touch the nerves of guilt, loyalty and frustration, Calley’s has become a political weapon—against the army or its critics, against the doves or the hawks or ex-hawks, against the President or his opponents. The Calley case has become the symbol of the scarred spirit and the divisions of a nation that could not fully support nor fully end a war, extraordinary in its length, ugliness, and lack of popular support.

A talk to University of Chicago law students on April 14, 1971 by Bernard D. Meltzer, James Parker Hall Professor of Law at the University of Chicago. During the Nuremberg War Trial (1945-46), Professor Meltzer served as Trial Counsel on the United States Prosecution Staff.

Some have seen the shadow of Nuremberg over this case and in the chain of events that preceded it. It is because of my involvement with the international trial there that I was asked to be here today. Let me say now what I will shortly demonstrate: That experience gives me no special credentials for dealing with the issues raised by My Lai and its aftermath. But I recognize our common responsibility to grope through the puzzling and contradictory uproar. It is because I share in the general confusions and not because I can unequivocally resolve them, even for myself, let alone others, that I am in this classroom; it is an especially appropriate forum since its tradition is that unanswerable questions should be left for resolution by the young.

There are at least three questions that need to be examined: First, what standards or traditions warrant the punishment of any soldier for conduct that to many is in the nature of the war? Second, who else, if anyone, in the chain of command from private to President should be next? Third, are our institutions, and especially our system of military justice, adequate for the further inquiries that some see as indispensable for even-handed justice and for the cleansing of the nation?

You will have noticed that I have passed over the charge that the United States is guilty of the crime of aggressive war in Vietnam, a charge that invokes Nuremberg with special force. That charge raises complex issues, including the significance of de
facto boundaries such as the 17th parallel. Those issues are however, not central to the Calley case, and I will deal with them summarily. First, I cannot accept the charge that the United States is guilty of the crime of aggressive war in Vietnam. I reject that charge for these reasons: All of the ground fighting has occurred south of the 17th Parallel in South Vietnam; North Vietnamese forces crossed that parallel and joined the Viet Cong in an effort to destroy the government of South Vietnam. Sober students of international affairs have suggested that Korea, West-East Germany, and now Vietnam, illustrate that world peace is threatened by forcible intervention seeking to change de facto boundaries of countries divided by hot or cold wars. Indeed, it has been forcefully argued that armed incursions across such boundaries constitute aggression. In any case, the situation with respect to aggression was vastly different at Nuremberg from what it is in Vietnam. Despite the perennial difficulty of formulating a clear and acceptable definition of aggression and despite issues as to the basic causes of World War II, there was no question that the Germans had launched an aggressive war.

A force of three companies was airlifted into an area thought to be a Viet Cong stronghold and a nest of Viet Cong sympathizers. One of the companies, although expecting heavy opposition, encountered none. That company had little combat experience and had recently suffered casualties from mines and booby traps that had enraged and frightened the men. Members of that company moved down approximately 100 unarmed and unresisting inhabitants without regard to age or, if it is still permissible to say so, sex. A lieutenant in that company killed at least 20 inhabitants and tossed into a ditch a child of two and then fired into the ditch. The lieutenant claims that he did what his captain had ordered, but his captain, who is to be tried for charges based on the killings involved, denies that claim although he admits that he told the lieutenant to use captured Vietnamese as lead guides through a suspected mine field. The lieutenant also claims that he can recall nothing about his instruction in the laws of war but that he had been warned to suspect every Vietnamese. There were reasons for such warnings. The Viet Cong do not observe the provisions of the Geneva Convention calling for a combatant to “wear a fixed distinctive sign visible at a distance.” Even women and children can and do plant booby traps and toss hand grenades. There was, however, no suggestion of a hostile move or act by the villagers who were killed at My Lai. For his alleged killings, the lieutenant is charged with violating the rules of war or rules dealing with the treatment of civilians, embodied in American military regulations.

Those charges which repudiate the maxim that all is fair in love and war, suggest that it is useful to consider the sources of, and the basis for, standards applicable to an enterprise whose immediate purpose and effect is death and destruction that envelop combatants and non-combatants alike. Standards governing the waging of war are embodied in the laws of war, violations of which are “war crimes.” Those laws are not the invention of Nuremberg or World War II. They are of ancient origin and have
been enforced against our own forces as well as the enemy's throughout our history—albeit with differing zeal and energy.

The rules of war have a patently paradoxical quality. War, even if waged according to the rules, involves such a multiplication of horrors that to punish breaches of the rules of warfare seems to many like a mocking exercise in gentlemanly futility. Indeed, Goering at Nuremberg, attacked the Rules of Land Warfare as obsolete and inapplicable to a nation fighting a modern war. His attack was not new and cannot be summarily dismissed. All wars involve the progressive erosion of restraint and chivalry by both sides although in varying degrees. That tendency disturbed Grotius in the 17th Century and disturbs us today.

In any case, it is plainly war itself rather than war crimes that marks the paramount failure of civilization. It was that fact that led to the condemnation at Nuremberg of aggressive war as the supreme crime. And it was that condemnation that was arguably the novelty of Nuremberg. The application of the laws of war at Nuremberg was, to repeat, consistent with an old tradition.

That tradition rests on humane and practical considerations. The rules, despite unevenness of observance and enforcement, do operate to reduce suffering, protect POWs and civilians, and generally to restrain the suffering and carnage that all wars unleash. Furthermore, many of the acts condemned as war crimes are militarily counter-productive. Military efficiency is inconsistent with the notion that soldiers are free to kill and loot without regard to military necessity. Such conduct alienates occupied territories, stimulates reprisals, and complicates the task of peace-making. It further brutalizes the participants and increases the difficulties of their adjusting to the demands of civilian life.

These and related considerations have led to the incorporation of the rules of war into international treaties and conventions, and particularly the Hague and Geneva Conventions. The substance of these laws is, moreover, observed in the military law of many countries. In the United States, they are included in manuals, such as "The Law of Land Warfare," which also provide for enforcement machinery, employable against our own or enemy forces.

There can be no question, and no question has been raised, that the killing of defenseless and unresisting victims in our hypothetical case is a violation of the Army's Rules of Land Warfare. That conclusion, it must be emphasized, is independent of whether the Vietnamese War is viewed as wise or unwise, just or unjust, or whether Vietnamization is a sound policy. The answers to these questions doubtless influence the willingness of some to extoll, to condone, or to excoriate, Lt. Calley. Such scrambling of means and ends is, after all, not restricted to the laws of war. But those laws are designed to operate without regard to the nature of the war involved—however commanding that issue may be for other purposes.

But a basic question does remain about our hypothetical lieutenant and his responsibility. That question arises from his claim that he was acting under orders. The soldier's training is to obey. Automatic obedience may result from an internal compulsion that is bred into a soldier's bones. Furthermore, disobedience is a basis for harsh external sanctions, including death. How then can legal and moral responsibility be imposed on a soldier who obeys an order? An army is not a debating society. How can it be run if a soldier must at his peril judge the legality of an order? This dilemma is an old one, and I will not spell out the fluctuating resolutions that evolved over time. It is enough to note that the American Field Manual was revised in 1944 so as to reject superior orders as an absolute defense; the manual now provides that they may be taken into account in defense or mitigation. In this respect the manual resembled the approach previously embodied in the German Military Code and later embodied in the Nuremberg Charter.

Although I have not examined the authorities in any detail, it appears that two factors are of primary
importance in weighing a plea of superior orders urged in defense or mitigation. The first is knowledge of the illegality of an order and the second is fear of the consequences of disobedience. Regard for those factors reflects an effort to take account of general notions of criminal responsibility as well as the nature of military service, and, at the same time, to give effect to the rules of war. The difficulties in weighing those factors under some circumstances need no elaboration.

But all cases governed by pliable criteria are not hard. And even if our hypothetical lieutenant acted under orders to cut down all unarmed and unresisting inhabitants, those orders were so flagrantly in violation of the laws of war that he must be charged with knowledge of the illegality of those orders—unless the pressures of a guerrilla battlefield and the erosion of sensibility by virtue of his prior experiences had robbed him of minimal rationality and decency. As for the lieutenant’s fears concerning the consequences of disobedience, we know how easy it is for armchair moralists to dismiss the fears of others confronted by difficult situations. Nevertheless, there is nothing in the situation at hand to suggest that our lieutenant faced the choice of killing or of substantial danger to himself. Indeed, if I may add to our hypothetical case, some of his fellow soldiers refused to join in the slaughter and others insisted that it be exposed and punished. In any case, the military code, rejecting as it does superior orders as an absolute defense, imposes stern if uncertain obligations on military men. Those obligations, reminiscent of *Dudley and Stevens*, may mean that under some circumstances the law of self-preservation may not be the highest law.

Let me turn now from the hypothetical case to the Calley case. The general verdict does not tell us how the jury dealt with the claim of superior orders: whether they found that no such order was given or whether they made the contrary finding but concluded that order should have been ignored. It is that ambiguity that contributes to the cry that Calley is a scapegoat who is being punished for the crimes and deficiencies of his superiors who have not yet been brought to book. Nevertheless, that contention suggests only that the responsibility should be wider, not that Calley was wrongfully ensnared.

The question at the heart of the cry of scapegoat remains—how many more American-made My Lai’s have there been in the Vietnamese war? The news has been full of other cases, the circumstances of which are far from clear, in which military personnel have been convicted of murder and other crimes against the Vietnamese. But the news has also been full of confessions of other outrages in Vietnam by personnel who have not been tried and who are now beyond the reach of court martial jurisdiction. These tales raise the question of unequal application of the law. Such inequality sometimes results, we know, from the failure of proof or apprehension and is an inescapable limitation of all law enforcement. But the charge here appears to go to a different kind of inequality—an inequality that involves the belated singling out of one accused in response to a popular outcry, coupled with the deliberate suppression of similar outrages that were or should have been known to the military authorities.

Such a charge raises anguishing difficulties for a system of military justice. Such a system, like other judicial systems, can deal with occasional deviations from a governing standard. But to deal with wholesale deviations would put into question the training, discipline, and honor of the service and to inflict another blow to the flagging morale of its men who,

*Regina v. Dudley and Stevens*, 14 Q.B.D. 273 (1884). This is the celebrated case that ruled that the killing of the weakest member of a crew in a life-boat in order to save the others from probable death by starvation was not warranted by “necessity” and constituted murder. See Mallin, “In Warm Blood,” 34 University of Chicago Law Review 387 (1967).
it must be remembered, are still fighting a war. On the other hand, to sweep similar incidents under the rug or protect those who have sought to cover them up, is to flout the regulations and the standards invoked against Calley, to tarnish the traditions of the service, and to rob justice of a necessary proportion of equality. A satisfactory resolution of this dilemma, assuming the facts make it a genuine one, which is far from clear, may be beyond the army’s capacity. In a moment, I will raise the question of whether more competent tribunals are available.

Before doing so, there is a more subtle variant of the scapegoat charge that should be noticed. The suggestion is that My Lai is the natural result of the practices that have been built into our conduct of the Vietnam war. Those practices are a response to the nature of that war—a guerilla war, a multi-lateral war, a war without clearly defined fronts, or a clearly marked enemy—an enemy incidentally that has, at the highest level of responsibility refused to acknowledge the binding effect of the Geneva Conventions and has disregarded them in connection, e.g., with the treatment of P. O. W.'s. In such a war, as General Giap put it, each inhabitant is a soldier, each village is a fortress; the entire population participates. And in Mao Tse-Tung’s metaphor, the guerillas are fish and the people water in which the fish swim.

In responding to that war, we have relied heavily on aerial bombardment, search and destroy missions, and free fire zones. Such measures, and air power in particular, resemble My Lai in that they kill combatants and non-combatants alike. A bomber is plainly less discriminating than an infantryman’s rifle. But air power has been our preferred weapon and that preference in related contexts has been shared by Congress as well as the military. In any case, aerial bombardment was a common practice on both sides in World War II. The Nuremberg judgment was silent on such bombardment, and international conventions do not resolve its legality. But according to the actual practices of modern war, including the practices of both sides in World War II, a bomber may kill civilians as an incident of achieving military objectives, without violating the rules of war. But an infantry-man who deliberately mows down unarmed civilians has violated those rules. Whatever uneasiness such a distinction may evoke, aerial bombardment of civilian centers is not necessarily a war crime.

But the accusation, vaguely echoed last Saturday by a coalition of churchmen, goes far beyond aerial bombardment. It is in essence that our total tactics and strategy—aerial bombardment, search and destroy missions, free fire zones—are aimed at civilians, kill thousands of them, generate millions of refugees and involve a total lack of proportion between ends and means. This last point is critical for laws of war.

A standard calling for a proper proportion between civilian suffering and military objectives is unpredictable as well as harsh. I do not pretend to have either the facts or the wisdom required for its application to operations in Vietnam. But, I would emphasize, it is not Vietnam that has produced that harsh and pliable formula. That formula is the product of modern war itself and the imperfect guidelines for restraining its savagery—guidelines that have not digested and regulated a new and frightful technology. As a consequence, we must at least recognize the acute moral and legal ambiguities that the services and the President cannot escape, and we must also, I believe, avoid a national masochism that would use the horror of all war or of the Vietnamese war as a basis for a blanket indictment of the American military establishment for having committed war crimes.

But to refer to moral and legal ambiguities is not to resolve them, and the Calley case has provoked justifiable calls for an inquiry into the legality and morality of the means by which we have waged war in Vietnam and into the question of whether failures...
of the higher command were responsible for My Lai and any similar outrages. The latter question evokes memories of General Yamashita, the Japanese general who was executed by an American military tribunal, basically for failing to control his troops who had been guilty of massive atrocities during the 11 month period of the final battle for the Philippines in 1944-1945. Bitterness against the Japanese did not immunize the Yamashita decision against criticism at the time it was rendered. Whatever one's view of that case, the wholesale atrocities which it involved serve to distinguish it from My Lai. But to the extent that evidence suggests that more My Lai's have occurred, the shadow of Yamashita looms larger over the American command in Viet Nam.

An inquiry directed at the questions that have been raised would plainly involve formidable difficulties—evidentiary, institutional, and political. The pertinent events have occurred at the other end of the world and over a long period of time. They would presumably have to be reconstructed by testimony, and the usual fallibility of testimony would be intensified by the passions, the fears, the loyalties generated by this war. Men of conscience and exhibitionists, truthful and otherwise, would come forward with evidence of outrages by our forces. The Vietnamese, whether their testimony was exculpatory or inculpatory, would doubtlessly be concerned about reprisals. The issues of credibility would plainly be formidable. Such issues were largely avoided at Nuremberg because the prosecution relied primarily on unquestioned documentary evidence—evidence that made it clear that war crimes had been coolly and willfully planned by the top Nazi command and were not the result of the loss of control by men caught up in the swirl of battle.

Plainly, a tribunal adequate to the task of examining the conduct of the Vietnam war would require the qualities of mind, judgment, disinterestedness, integrity, and commitment to an arduous and probably unpopular inquiry, that we associate with the best traditions of the law. Such a tribunal also should enjoy, as well as deserve, public confidence. Furthermore, it should not consist of appointees who would serve only as a front for the work of others.

Existing mechanisms, such as military tribunals or Congressional committees, would not satisfy the requirements that I have outlined. Under the system of military justice, charges of breach of military regulations, or the laws of war are brought by the superior officer of those to be accused. An officer corps that has developed and implemented tactics and strategy for a difficult war, in response to their conceptions of duty and military necessity can scarcely be expected to indict itself. The President, like his predecessor, is also deeply involved and properly concerned about resultant damage to the social fabric. Congress, moreover, is involved because it has appropriated money for a war whose practices raised questions which were known, or should have been known, by Congress. In any case, neither the temper of the country nor the tradition of Congressional committees suggests that such a committee would be suitable instrument of inquiry. The civil courts lack jurisdiction over those in the army and court martial lack jurisdiction over those who have left the military service.

There are perhaps even greater obstacles to such an inquiry that arise from the national mood. As the diverse response to the Calley case suggests, the means used to wage the Vietnam war have not been, and perhaps cannot be, separated from the ends for which it has been fought. And it may be that by an inversion of the usual formula, the means are condemned because of their ends. In any case, we may need a period of greater tranquility than we now have for the searching and dispassionate self-study that is needed, a period in which the military is free from the inexorable demands of war and the country more able to absorb the recriminations that might re-
sult. But there is the risk that tranquility will produce apathy with respect to an arduous and distasteful job. My own uninformed view is that we should press such an inquiry despite the difficulties involved.

An international commission, as some have urged, might prove a useful instrument for an inquiry. But it is not easy to insulate such a commission from the larger controversies that continue to shake the world. It is, moreover, doubtful that the leadership of a great power would admit probable cause for such an inquiry, or would accept the immediate and ultimate risk to its prestige and to its unity. The risks are those that are especially acute in controversies implicating politics—the risks of omniscient hindsight, the risks of conscious distortion, the risks of unconscious error, and the risks of truth. I naturally cannot appraise each of these risks, but I doubt that they are greater than those inherent in silence, in self-serving white papers in the face of grave accusation, or in the self-appointed tribunals that, for noble or ignoble motives, will rush into the investigatory vacuum.

The trial of Lt. Calley, coupled with the lack of institutions competent to judge the overall conduct of the war, produces a difficulty that Nuremberg illustrated but did not invent. There the victors applied the laws of war to the vanquished but did not comb their own ranks for violators. The Russians were not forced to defend their operations in Finland or Poland; we were not required to defend Hiroshima or Nagasaki. The nature and magnitude of Nazi savagery and the undeniable fact that it was their aggression that unleashed the whole chain of horrors strengthened our relative moral position. But those considerations do not conceal the basic flaw in the unilateral and unequal application of the controlling standards, including the newly formulated standard prescribing wars of aggression—a flaw that is the product of a primitive international system.

The Calley case has sharpened questions concerning a new inequality—an inequality within a nation rather than between nations. The judging of Calley, whatever inequality it may involve, was, in my view, demanded by what he was charged with. But his trial, unlike the Nuremberg trial, involved a theater of a guerilla war and a junior officer, and not the top leaders of a regime who had coolly built flagrant war crimes into the official structure of Nazi policy. So long as the actions and omissions of the top American command are left unexamined, we will be haunted by that new inequality and by the question that has already been voiced: Is judging Calley enough? Although I have doubts that there is an appropriate legal forum—or indeed—any other earthly forum in which that question can be judiciously resolved, we must, I believe, strive to do so. Despite such an effort, we may, in the end, have to resign ourselves to the fact that the greater questions are seldom answered by the law.
stage another question is in order: what is wrong with making a small start on compensating victims in all these categories by first providing for only one group—the victims of crime?

No simple answer is likely to be persuasive, perhaps because the first step is not thought of as being a big deal or as involving a large sum of money. Moreover, a plan for crime victims is in harmony with the new middle class concern with law and order and with crime in the streets. The “average man,” in all probability, can now identify quite readily and empathize easily with the victims of crime.

The case against the plan ultimately must rest on either or both of two propositions. One is that it is wasteful (meaning “uneconomic”) to set up separate compensation arrangements for different types of victims. Just think of a potpourri of plans covering such misfortunes as those suffered by 1. victims of cycling accidents; 2. victims of motor boat accidents; 3. victims of Good Samaritan actions; 4. victims of street defects; 5. victims of sudden illness; and so forth. Each plan will require the solution of numerous definitional problems; each will necessitate prescribing procedures for recovery; and each will call for development of practitioners with special skills and expertise, who as a group will then have strong financial and other interests in preserving their own little domain. As the plans proliferate in number the dangers and difficulties of overlaps are bound to increase. To be sure, this line of argument must not be pushed too far. In a wealthy society maybe all these luxuries can be afforded.

The other proposition is much more far-reaching. A piecemeal approach to compensating victims obscures analysis of the proper role of government because the focus tends to be too narrow. My illustrations of misfortune obviously were not intended to exhaust the categories. In addition to those who suffer sudden misfortunes there are those who were born with shortcomings, those who gradually develop physical disabilities, those who become senile early in life, those who succumb to the strains of life for no apparent reason and those who just cannot make the grade in the economic world. I do not pretend to know what compensatory or other arrangement is best for dealing with the many varieties of misfortune in our society. This is a central challenge for government. What is to be noted now is that the path for arriving at a good and defensible solution gets to be more treacherous as we are diverted by ad hoc measures for dealing with particular misfortunes. A piecemeal approach is all too likely to result in helping a few victims at the cost of doing serious injustice to many.

One must be careful not to turn this general proposition into arid perfectionism. It would be patently ridiculous to conclude that no victim of misfortune should be compensated by the state until provision has been made for giving equal treatment to all other blameless victims who are in similar economic circumstances. Conceivably an ideal system would base state payments solely on the distressful economic circumstances of individuals regardless of how these came about; or perhaps it would recognize that the availability of compensation under certain conditions might possibly induce some persons needlessly to increase their exposure to misfortune and thus enlarge the total loss suffered by society as a whole. People surely will differ in their conception of the ideal. But no matter how attractive a particular model for a general compensation plan might appear to be, its virtues cannot be a sufficient reason for not doing anything at all short of enacting only that prescription. Bestism is at war with politics in a democracy; some compromise is always a political necessity. The important thing is for lawmakers and others to frame issues and put forward proposals which generate debate that tends to move us towards the ideal. The greatest weakness of schemes to compensate victims of crime is that by their very nature they work to dampen all such discussion. Their narrow provincialism buries the great problems in a mass of trivia.
James Parker Hall
Professor of Law

Bernard D. Meltzer has been appointed James Parker Hall Professor of Law, succeeding Sheldon Tefft, who has been the James Parker Hall Professor Emeritus of Law since his retirement in 1968. Professor Meltzer received his J.D. from the Law School in 1937 and a L.L.M. degree from Harvard Law School in 1938.

From 1938-1950 he served as attorney and Special Assistant to Jerome Frank, Chairman of the Securities and Exchange Commission. He was also an associate in the Chicago law firm of Mayer, Meyer, Austrian and Platt in 1940, and Counsel in the office of Vedder, Price and Kaufman, 1954-55. He was a Special Assistant to Assistant Secretary of State Dean Acheson and Acting Chief of the Foreign Funds Control Division for the Department of State from 1941 to 1942. During the Nuremberg War Trial (1945-46), Professor Meltzer served as trial counsel on the United States Prosecution Staff, on assignment from the U. S. Navy.

Specializing in evidence and labor law, Professor Meltzer has written extensively in both fields. His most recent contribution is a text, Labor Law: Cases, Materials and Problems (Little, Brown, 1970). In 1959-60 he was Co-Chairman of the Committee on Development of Law under the National Labor Relations Acts, Labor Relations Sections of the American Bar Association. Since 1966 he has served on the Presidential Task Force on National Emergency Strikes. He was a member of the Governor's Advisory Commission on Labor-Management Policy for Public Employees (Illinois, 1967-68). Recently he was named to a federal labor fact-finding panel with two other arbitration experts to help settle the initial labor contract dispute involving the new United State Postal Service and the Council of American Postal Employees. Professor Meltzer has also recently completed a committee report as member of the American Bar Association's Special Committee on Transportation Strikes.

In addition to Sheldon Tefft, other holders of the James Parker Hall Professorship, the oldest named professorship in the Law School, have been Edward Wilcox Hinton, George Gleason Bogert, and Wilber Griffith Katz.

Clifton R. Musser
Professor of Economics

Professor Ronald Coase has been named the first Clifton R. Musser Professor of Economics in The University of Chicago Law School. The chair was established with a gift from members of Musser's family. The purpose of the chair is to establish a permanent professorship in economics at the Law School.

Commenting on the appointment of Coase, President Edward H. Levi said, "Through his immense intellectual independence and penetration, Professor Coase has established himself as one of the world's major economists in the areas of price theory and public regulation. This appoint-
ment is the University’s recognition of his achievements.”

Professor Coase was born in 1910 in London, England. He studied at the London School of Economics, from which he was graduated in 1931. After teaching at the Dundee School of Economics and the University of Liverpool, he joined the faculty of the London School of Economics in 1935 and was appointed Reader in Economics with special reference to Public Utilities in 1947. Professor Coase served as Chief Statistician of the Central Statistical Office in the British War Cabinet (1941-46). From 1945 to 1956 he was also Acting British Director of Statistics and Intelligence, Combined Production and Resources Board, and Representative of the Central Statistical Office in Washington, D.C.

In 1951 he migrated to the United States and has held positions at the Universities of Buffalo and Virginia. He was a Fellow at the Center for Advanced Study in the Behavioral Sciences, Stanford, California for 1958-59. He came to The University of Chicago in 1964 as a Professor in the Graduate School of Business and the Law School. At the Law School, Professor Coase is director of the Law and Economics Program and editor of the Journal of Law and Economics. He is the author of numerous articles, including “The Nature of the Firm” (Economica, 1937), and “The Problem of Social Cost” (Journal of Law and Economics, 1961). In his work on social cost, Professor Coase reconstructed the problem of efficient markets and launched the theory of transaction cost, a theory of fundamental importance in the solution of many contemporary problems, such as the economics of pollution.

ARNO LD SHURE
Professor of Urban Law

The first holder of the Arnold Shure Professorship of Urban Law will be Allison Dunham. The $600,000 endowed professorship was created through a $300,000 Matching Grant from the Ford Foundation and a like amount contributed by a large group of friends of the Law School. The purpose of the Arnold Shure Professorship is to strengthen the Law School’s resources for teaching and research in aspects of the law affecting the government of urban areas and the control of the human urban and physical environment. The establishment of the new chair will encourage the study of a diversified set of problems cutting across conventional boundaries of the law. Possible areas of investigation would include laws having specific impact on the economic welfare of low-income and otherwise disadvantaged groups, such as credit and other consumer problems, the law of landlord and tenants, and welfare and public-assistance programs. Housing, city and regional planning, urban renewal, real estate development, building codes, and environmental problems would be further concerns.

Professor Dunham has been a member of the faculty since 1951. He is a member of the National Conference of Commissioners on Uniform State Laws and has served as Executive Director from 1962-69. He is an expert on probate and property law as well as laws affecting the development of urban areas.

Professor Dunham has been a member of the faculty committee for the University’s Center for Urban Studies and beginning July 1, 1971, he will assume the Directorship of the Center in addition to his professional duties.

Arnold I. Shure, a native of Chicago, received his Ph.B. from the University of Chicago in 1927 and his J.D. in 1929. Since graduation from the Law School he has engaged in private practice in Chicago. In his practice and in work with legislative committees and other groups he has been especially concerned with the development of law relating to protection of investors. In 1946 Mr. Shure and his wife established a special fund in the Law School to support research dealing with immediate problems of the public welfare and the needs of the underprivileged or inadequately protected ordinary citizen. Among his varied civil and community activities, Mr. Shure is
president of the Jewish Students Scholarship Fund, chairman of the W. McNeill Kennedy Memorial Library Committee of the Chicago Bar Association Foundation, and a member of the Midwest Board of the American Friends of Hebrew University. In the 1930’s he headed a German students’ refugee project in cooperation with the University of Chicago and other universities. He has been an officer and director of the Alumni Association of the Law School. In announcing the establishment of the new chair, Dean Neal said: “It is fitting that the new chair should be named in honor of Mr. Shure, a distinguished and devoted alumnus whose interests have long focussed on concerns within the scope of this professorship.”

Stanley N. Katz has been appointed Professor of Legal History in the Law School. Presently Associate Professor of History at the University of Wisconsin, Mr. Katz is an outstanding scholar in the field of American colonial history whose interests in recent years have turned to legal history. He spent a year in the study of law at Harvard Law School, as Fellow in Law and American History in 1969-70. He is Editor of Studies in Legal History, a monographic series published by Harvard University Press in association with the American Society for Legal History, and Associate Editor of The Journal of Interdisciplinary History. Mr. Katz received his A.B. and Ph.D. degrees at Harvard and taught in the Harvard history department from 1957 to 1965. His publications include: “Looking Backward: The Early History of American Law,” 33 University of Chicago Law Review 867-884 (1966); “The Origins of American Constitutional Thought,” III Per-

Stanley N. Katz


John H. Langbein has been appointed Assistant Professor of Law. Mr. Langbein received his LL.B., magna cum laude, from Harvard Law School in 1968, and attended Trinity Hall, Cambridge University, England, in 1968-69, where he received an LL.B. with First Class Honours and was awarded the Trinity Hall Prize in English Law. His principal interests to date have been in the fields of criminal procedure, comparative law, and legal history. For the past several years he has been pursuing studies in comparative legal history in England and Germany and is presently a candidate for the Ph.D. degree from Cambridge University. He will teach standard subjects in the Law School and will, in addition, offer course and seminar work in English and comparative legal history. Mr. Langbein’s experience includes work as a legislative aide in the Senate of the State of Florida and as a summer associate in the firm of Cravath, Swaine & Moore, New York. He is a member of the bars of the District of Columbia and of England and Wales.

Guenter H. Treitel will be Visiting Professor of Law for the Autumn and Winter quarters, 1971-72. Professor Treitel, who is All Souls Reader in English Law at Oxford University, taught at the Law School in 1963-64 and again in 1968-69. He is the author of the leading contemporary English treatise on Contracts. He will teach the course on Contracts during the absence of Professor Gilmore, who will be on research leave.

Richard I. Badger ’68 recently succeeded Don S. Samuelson as Assistant Dean in the Law School. His responsibilities include alumni activities, placement, and conferences and special events. Mr. Samuelson is now serving as Assistant Director of the Illinois Housing Development Authority in Chicago. Mr. Badger was graduated from the University of Vermont in 1965.
and attended the University of Chicago Law School on a National Honor Scholarship. Following his graduation in 1968 he was associated with the Chicago law firm of Schiff, Hardin, Waite, Dorschel and Britton. He then entered the Army with an R.O.T.C. Commission and was released from active duty in January, 1971, with the rank of Captain having served as an advisor in Vietnam.

Mr. Badger’s wife, Marian, will receive her J.D. degree from the Law School in December, 1971.

FRANK L. ELLSWORTH has been appointed Assistant Dean in the Law School. His basic responsibilities will include development, the Law School Record, and other publications for the Law School.

Mr. Ellsworth received his A.B. cum laude from Adelbert College of Case Western Reserve University in 1965. Since that time he has combined graduate study with administration. While serving on the Dean of Students staff, he received in 1967 his M.Ed. in the history of American Education from The Pennsylvania State University. In 1968 he received his M.A. from Columbia University in literature and is presently writing his dissertation on the literature of the Puritans in the Massachusetts Bay Colony. While at Columbia he was Assistant Director of Development at Teachers College for a capital campaign and Assistant Director of Development and Alumni Affairs at the Law School. This past year he has been Director of Special Projects and Professor of Literature at Sarah Lawrence College.

DALLIN H. OAKS, Professor of Law, Executive Director of the American Bar Foundation, has been named president of Brigham Young University. In announcing the appointment, Commissioner of Education for the Mormon Church Neal A. Maxwell said, “Dallin Oaks has achieved significantly in the world without being compromised by it—which has earned the high esteem of academic colleagues and his associates in the Church. Able to deal with the issues of our time in the context of Gospel solutions, he is committed to excellence. His probing thoughtful approach to people and to problems permits him to build relationships with young and old, with Church members and non-members.” Professor Oaks received his J.D. in 1957 from the University of Chicago Law School where he was graduated cum laude, and was Editor-in-Chief of the Law Review. He has been a member of the faculty since 1961.

Commenting on the departure of Professor Oaks at the Alumni Dinner on May 6, 1971, Dean Neil said: “For ten years Dallin Oaks has been a pillar of the Law School—as Associate Professor and Professor, as Associate Dean and Acting Dean at a critical period, as a splendid teacher and as a scholar of great accomplishment. He is about to leave us for a position for which he is superbly qualified.”

WALTER J. BLUM has been elected a trustee of the College Retirement Equities Fund. The companion organization of CREF, Teachers Insurance and Annuity Association, was founded by the Carnegie Corporation and the Carnegie Foundation for the Advancement of Teaching in 1918 with the cooperation of college teachers, administrators, and their national associations. The objective of these organizations is to provide educators with a flexible and portable retirement portfolio. Professor Blum was elected in accordance with policyholder balloting.

HAPPY BIRTHDAY. In the best tradition of Chicago soirees, a birthday party was held for Grant Gilmore, Harry A. Bigelow Professor of Law, on April 8. Planned by his students, the party included a two hour lecture on Article 9. Showing no signs of insecurity, a student delivered a speech extolling the virtues of the honored guest, briefly summarizing the Kinsman Transit case. He then presented Professor Gilmore with a genuine sailor cap personally monogrammed: HMS Baxendale. Reflecting upon the merriment Professor Gilmore noted, “The party was more fun than a negative covenant, but

Frank L. Ellsworth

Dallin H. Oaks
not quite as fun as a subordination agreement.” Professor Gilmore is on research leave during 1971-72, and has been selected to receive a Guggenheim Fellowship. He will be working in Cambridge, Massachusetts on the biography of Justice Oliver Wendell Holmes, Jr. (1882 to 1935).

Norval Morris, Julius Kreeger Professor of Law and Criminology and Co-Director of the Center for Studies in Criminal Justice, is a member of a special commission formed by the American Bar Association to upgrade correctional methods. The commission recently recommended the elimination of state and federal laws that prohibit many former convicts from holding government jobs, from being licensed to work in various businesses or professions, and from obtaining security clearances, drivers licenses, and other job requirements. The Federal Government and the states will also be urged to modify rules that forbid convicts to do work that competes with labor on the outside.

Max Rheinstein, Max Pam Professor Emeritus of Comparative Law, has finished a book on Marriage Stability. Divorce and the Law which will be published by the University of Chicago Press in late 1971. Together with Mary Ann Glendon ’61, Professor Rheinstein has completed Law of Decedents’ Estates, 3rd edition, to be published by Foundation Press in September, 1971. An article, “Trends in Legal Learning—United States of America,” appeared in the International Social Science Journal, 22 (1970). Professor Rheinstein is currently a member of the International Faculty for the Teaching of Comparative Law. Last summer he taught in Recanati, Italy, and this summer he will be in Lisbon, Portugal.

Hans Zeisel, Professor of Law and Sociology, crossed swords in Commentary Magazine (May 1971) with Harvard Professor James Q. Wilson over Ramsey Clark ’51, regarding crime control. Professor Zeisel has been asked by Dr. Daniel B. Rastbun, Director of President Nixon’s Commission on Federal Statistics, to review the problems of crime, court and prison statistics. In addition, Mr. Zeisel is presently advising the Vera Institute for Justice on the evaluation of preventive detention measures in Washington, D.C. He has prepared a paper which will appear in the Summer 1971 issue of the University of Chicago Law Review, “... and then there were six,” on the proposed reduction of the size of federal civil juries from 12 to 6.

CONSUMERISM

Recent legislative proposals to authorize consumer oriented cases within the liberal class actions provision of the Federal Rules of Civil Procedure were among the several issues considered at the conference on Consumer Class Actions held on February 26th and sponsored by the Law School. Approximately one hundred seventy-five lawyers attended the conference, which explored the claimed weaknesses in such actions from the standpoint of public and legislative policy. The morning session was opened with a speech by Philip Schrag, Consumer Advocate,
Office of Consumer Affairs, City of New York, entitled “Class Actions: The Need for Additional Legislation.” Arnold I. Shure ’28 addressed the morning session on “Is the Experience in Stockholder Actions Relevant?” Speakers for the afternoon session were Ferdinand Zeni, Associate General Counsel for Montgomery Ward and Company, who spoke on “Consumer Class Actions—Experience of Defense Counsel” and Arthur A. Leff, Professor of Law at Yale Law School, who addressed the group on “Consumer Class Actions—An Overview.” Conference Chairman was Allison Dunham, Professor at the Law School.

The Birth of a Journal

The Law School, which already publishes three scholarly journals—The Law Review, the Journal of Law and Economics, and the Supreme Court Review—is about to embark on the publication of a fourth journal, the Journal of Legal Studies. The Journal will appear twice a year, and will be edited by Professor of Law Richard A. Posner, who has written extensively in the fields of antitrust law, economic regulation, and torts. The first issue is scheduled to appear at the end of this year.

The Journal is designed to fill a gap in legal publications since no existing journal conceives its primary mission as the study of the legal system as it operates in fact. The dominant concern of legal journals is with the analysis of legal doctrines and the proposal of law reforms. These concerns do not exhaust the proper field of legal scholarship. It is important not only to be able to criticize a line of decisions for logical inconsistency, but to be able to appraise the practical utility of legal institutions in meeting social needs. It is important to be able to answer such questions as when rules of liability affect the allocation of resources and the distribution of wealth, how legal sanctions affect behavior, what are the typical differences between legislative and judge-made rules, what are the strengths and weaknesses of different kinds of tribunals, how politics affect the legal process, what incentives operate on legal decision-makers, how access to the courts is rationed, and how consistently and effectively the requirements of the law are enforced.

The behavioral or empirical emphasis of the new Journal is not new in legal scholarship. The spiritual grandfather of the Journal and of the movement in legal scholarship that it hopes to encourage is Holmes, whose admonition that “the life of the law has not been logic; it has been experience,” remains timely today, and whose great work, The Common Law, continues to be a model of the application to the law of a scientific intelligence searching for a system’s fundamental explanatory principles. Holmes’ heirs of the 1920s and 1930s, the “Legal Realists,” made pioneering attempts to go beyond doctrinal analysis and to study the legal system as it actually operated.

For reasons that are obscure, the movement of Legal Realism seemed to diminish in the 1940s. In the 1950s and 1960s it revived, although no longer under the rubric of Legal Realism. The center of the revival is The University of Chicago Law School. Among the landmarks of this revival are Karl Llewellyn’s Common Law Tradition, Kalvin and Zeisel’s The American Jury and other works of the Chicago Jury Project, and more recently a series of studies of economic regulation by younger members of the faculty. Professor Posner’s recent statistical studies of antitrust enforcement since 1890 and of the negligence standard of tort law in its classic period (1875-1905) exemplify this tendency in scholarship.

What is notable and promising in the revival of interest in the legal system as an object of scientific study is the greater and more fruitful employment of the methods and perspectives of the social sciences than that found in earlier periods; doubtless this reflects the greater maturity of those sciences. In the increasingly multi-disciplinary character of research on the legal system lies perhaps the greatest need and opportunity for the new Journal. Today economists are writing about the legal sys-
tem in economic journals, sociologists are writing about the legal system in sociological journals, historians are writing about the legal system in historical journals, and lawyers are writing about the legal system in law journals. There is little awareness of "legal studies," conceived as a distinct multi-disciplinary field to which lawyers, economists, sociologists, historians, anthropologists, political scientists, psychologists, and doubtless others, have worthwhile contributions to make. The Journal, which solicits contributions in all of these fields seeks to forge a sense of the identity of the field of legal studies and thereby to lend momentum to the new movement in legal scholarship.

Planning for the first issue is underway and the tentative contents include theoretical and empirical studies. George J. Stigler, Charles R. Walgreen Distinguished Service Professor of American Institutions at the University of Chicago, has contributed an article entitled "The Law and Economics of Public Policy: A Plea to the Scholars," in which he attempts to delineate a proper division of functions, in the investigation of questions of legal policy, between lawyers and economists. Another economist at the University of Chicago, Harold Demsetz, who has a joint appointment in the Law School and the Business School, has contributed an article entitled "When Does the Rule of Liability Matter?" which is an inquiry into the effect of different assignments of legal rights and liabilities on the allocation of resources and the distribution of income and wealth. Martin Shapiro, a professor of political science at Berkeley, has an article entitled "Toward a Theory of Stare Decisis" in which he argues that many seemingly purposeless or merely ornamental features of appellate decision-making, such as lengthy "string" citations, in fact serve an important function in maintaining effective communication among courts and lawyers.

In addition to these articles which are theoretical in character, the first issue of the Journal will contain several articles of an empirical nature. Professor Gerhard Casper, who is a member of the law and political science faculties at the University of Chicago, and Hans Zeisel, a member of the law faculty, have written jointly an article on the lay judge in Germany based on an extensive questionnaire survey of German judges. Franklin Zimring of the Law School faculty will contribute an article based on a statistical analysis of the lethal effects of different types of weapons used in crime, with reflections on the appropriateness of redefining the degrees of murder and assault in terms of the lethality of the weapon employed rather than the state of mind of the assailant. Richard Posner will contribute an article on the negligence standard of civil liability as it was administered in American courts in the period 1875-1905, based in part on a statistical analysis of a sample of cases drawn from that period.

The editor will be assisted by a distinguished multidisciplinary Advisory Committee: Gary S. Becker, University Professor of Economics, University of Chicago; John P. Dawson, Charles Stebbins Fairchild Professor of Law, Harvard University; Stanley Katz, formerly Associate Professor of History, University of Wisconsin and newly appointed Professor of Legal History, University of Chicago Law School;
Norval Morris, Julius Kreeger Professor of Law and Criminology and Co-Director of the Center for Studies in Criminal Justice at the University of Chicago; Dallin H. Oaks, President-elect, Brigham Young University and currently Professor of Law and Executive Director of the American Bar Foundation; George J. Stigler, Charles R. Walgreen Distinguished Service Professor of American Institutions, University of Chicago; Stanton Wheeler, Professor of Law and Sociology, Yale University; and Hans Zeisel, Professor of Law and Sociology, University of Chicago. The editor hopes to commission a variety of projects designed to illuminate fundamental characteristics of the legal system for eventual publication in the Journal, such as a survey of legal statistics, a study of the effect of codification on the volume of litigation, a study of the costs of legal rules, and an analysis of the incentive structures operation on various types of adjudicative tribunal.

A NEW PUBLICATION. BERNARD D. MELTZER, James Parker Hall Professor of Law, has recently published a book, Labor Law: Cases, Materials and Problems (Little, Brown & Co., 1970). One reviewer noted, "The case selection is beautifully edited. No casebook approaches the precision with which Professor Meltzer follows principal cases with illuminating notes. He does what I have always thought a casebook should. The principal case sets the stage; the notes stimulate research, discussion, and, one hopes, the mind... For the practitioner, the notes are a gold mine. Since they are selective, and not merely a collection of titles and quotes, they are an excellent source of further authority and thought... It is complete; its texts are extraordinary; and, as one who has used three text-books in the last four years, I have no hesitation in calling it the definitive labor law casebook. It probably will be for many years to come."


Founded in 1933 and published by the Law School, The Law Review is written and managed by the Board of Editors. Editor-in-Chief for 1971-72 is John J. Buckley, Jr.

MOOT COURT: The Annual Hinton Moot Court Competition was held in the Weymouth Kirkland Courtroom of the Law School on May 12th. Judges for the final argument were: The Honorable Byron R. White, United States Supreme Court Justice; The Honorable John Minor Wisdom of the United States Court of Appeals for the Fifth Circuit; and The Honorable Joseph Weintraub, Chief Justice of the New Jersey Supreme Court.
Women in Law

The second Annual National Conference of Law Women was held at the Law School, April 2-4, sponsored by the Law Women's Caucus at the Law School and the University Women's Association, University of Chicago. Approximately two hundred and fifty participants from over forty law schools across the country met to discuss a broad range of problems of specific interest to women in law.

Conference workshops covered a wide variety of subjects: employment discrimination, law school recruitment and admission of women, protective legislation, women and the criminal justice system, survival in law school, abortion, legislative reform, para-professional legal workers, and the relationship of women in the law to poor women and to the larger women's movement. At its plenary session the Conference passed resolutions calling for prison reform, a guaranteed annual income, support for Southern Black law schools, the treatment of women's problems in law school curriculum, an end to employment discrimination, and legislative reform designed to create equality for women. Among the speakers were Florynce Kennedy and Diane Schulder, authors of Abortion Rap. Reports of the Conference proceedings are available from the Law Women's Caucus at the Law School.

Research in Law—Economics

The findings of two studies of the Law and Economics program at the Law School were recently presented in Washington at seminars sponsored by the Law School and the Journal of Law and Economics, which is edited by Professor Ronald H. Coase. On May 12th Bernard H. Siegan '49 spoke on the conclusions of his research into zoning which originally appeared in the Journal of Law and Economics (April 1970) in an article entitled "Non-zoning in Houston."

Declaring that zoning is superfluous and that chaotic governmental operation does not warrant its high cost to community resources, Mr. Siegan said, "It is absurd and inexcusable that at a time when there are numerous unfilled housing needs, zoning laws should exist that prevent many from being satisfied. Non-zoning should not be feared; it should be welcomed," said Mr. Siegan, who has had 20 years experience in zoning and real estate law. In his research conducted while he was a Fellow in the Law and Economics program, Mr. Siegan analyzed land uses in Houston, Texas, the only major U.S. city without zoning, and compared them with those of several zoned cities. Mr. Siegan called current governmental and private efforts against exclusionary zoning "tokenism." "As a practical matter, the most these endeavors can hope to obtain for a large suburban area are probably no more than several moderate low income developments, each containing about 100 to possibly 400 or 500 apartments," he said.

From his study, Mr. Siegan concluded that zoning gives control over the use of land to a strange combination of politicians, planners, owners, courts, citizens, do-gooders, do-bidders, etc. "As a result, a host of factors and forces are controlling land uses that have virtually no relationship to maximizing production, satisfying consumer demand, maintaining property rights and values, or planning soundly. In having greatly curtailed housing production,

zoning has considerable responsibility for our social ills. The experience of Houston shows that we can in good conscience seek its substantial curtailment and ultimately its elimination."

Mr. Siegan predicted that the Supreme Court and/or Federal and State Courts would reduce zoning powers of municipalities over housing through a series of decisions.

The second presentation sponsored by the Law School and the Journal of Law and Economics was held on May 27th. Professor Edmund W. Kitch addressed a group of industry and government representatives on the results of his study, "Regulation of the Field Market for Natural Gas by the Federal Power Commission." Professor Kitch, who specializes in the legal regulation of the economy, reported that his research indicated that the interstate consumer shortage of natural gas should be blamed on the 1961 price freeze imposed by the Federal Power Commission and not on an insufficient supply of natural gas underground.

"In spite of the basic abundance of natural gas with which our nation is blessed, and in spite of an acceptable although worrisome, near term supply situation, we are at the present time experiencing shortages in the interstate consumer market for natural gas," he declared. "These shortages result not from the inadequacy of nature's bounty, but from the regulation of the Federal Power Commission effectively imposed on the field market for natural gas in 1961."

He stated that the FPC now seems set on a course toward higher prices, "albeit in a confused and halting way, subject to substantial risks at any point of judicial reversal."

Noting that gas produced and used in the same state is unregulated, Mr. Kitch said gas producing states like Texas, Louisiana, Arkansas, and Oklahoma are in effect subsidized at the expense of consumers in non-producing states. "By holding down the price of natural gas within these regions, the federal regulation has effectively acted as a subsidy to this industrial market, and therefore as a subsidy to the industrial growth of the southwest," he explained.

"The only practical way to reduce the industrial use of gas within the Southwest is to raise the price of gas in that region. The federal regulation prevents that from happening, and by forecasting the out-of-state residential gas consumer from purchasing the gas, leaves it for the southwestern industrial user.

"Put another way, the residential gas consumer of the Pacific coast, upper midwest and the east coast is prevented by federal law from paying 10 to 15 per cent more for his gas, thereby making gas in the American southwest fifty percent cheaper than it would otherwise be and subsidizing the movement of industry from the consumer's home region to the southwest."

The shortage caused by the price freeze also had forced consumers to turn to alternative forms of energy and higher cost, he said, and encouraged economically inferior end uses of natural gas. "The detrimental impact of the regulation on the supply of natural gas results not only from the present low ceiling price," he said, "It also results from the unpredictability of the regulatory process itself. In an unregulated market, producers could predict simply through an examination of world-wide energy supply and demand trends that the price of domestically produced natural gas would rise. They could then proceed to make exploration expenditures now based on their expectation of higher prices in the future. But vagaries of the regulatory process make any prediction as to the future price of natural gas difficult if not impossible."

Mr. Kitch said that the consumer-oriented champions of gas regulation apparently had not analyzed the detrimental consequences of that regulation to the consumer. He predicted that representatives of the consumer states would lose their enthusiasm for regulation as their states experienced natural gas shortages. In turn, he said, representatives of the gas producing states in the southwest would switch positions and oppose termination of regulation. It is possible, of course, that the consuming states and the producing states, the first moving toward support for deregulation, the latter towards support for regulation, will agree in their confusion that the government should withdraw from intervention in this market," he said.
Alumni Association
Activities Announced
At the April 22, 1971 meeting of the Board of Directors of the Alumni Association a variety of new programs for the alumni were planned and approved. The Alumni Activities Committee, chaired by James J. McClure, Jr. '49, proposed that an Alumni Day, similar in format to the successful version held last year, be held in the Fall. Mr. McClure also recommended on behalf of the Committee that an informal luncheon program in downtown Chicago commence in the Fall bringing together alumni, faculty, and students. To encourage alumni meetings in areas outside Chicago with large concentrations of alumni, the Committee recommended that receptions be arranged in the Fall for welcoming recent graduates and second year students working in the area as well as receptions in September for students who would be entering the Law School as first year students. The Alumni Office at the Law School would coordinate these functions. The other members of the Alumni Activities Committee are Robert S. Fiffer '47, Merrill A. Freed '53, Frank Greenberg '32, Joseph V. Karagants '66, Howard G. Krane, 57, and Judith Lonnquist '63.

The Advisor Program, described elsewhere in this issue of the Record, was also endorsed by the Board during the meeting.

The officers of the Alumni Association for 1971-72 are:

President
William G. Burns '31
First Vice President
J. Gordon Henry '41
Vice Presidents
Richard H. Levin '37
Milton I. Shadur '49

George Shultz addresses alumni and friends at the Annual Alumni Dinner.

James J. McClure, Jr. '49
Jean Allard '53
Alan R. Orschel '54
Secretary
Ronald J. Aronberg '57
Treasurer
Arnold I. Shure '29

Advisor Program
The Alumni Association has embarked on an important program to assist students currently at the Law School in making plans for their future careers. A committee of the Association, chaired by Richard Levin '37, has developed an informal Advisor Program designed to give students the opportunity to discuss career objectives with alumni whose experience and insights may provide valuable assistance.

The simplicity of the program's operation insures that the responsibilities of participating alumni and students will be modest. In essence, the Alumni Association, through its office at the Law School, acts as a clearing house putting students in touch with alumni who have indicated a willingness to act as advisors. Students interested in talking with an alumnus come into the Alumni Office and discuss their career plans with Assistant Dean Richard Badger. The students are then given the names of one or more alumni based on their particular interests in such categories as size of firm, type of practice, or geographic location. Although an alumnus is advised of the name of the student who will be communicating with him, it is the student's responsibility to initiate arrangements for the meeting. Alumni in the Chicago area will usually be reached by students during the school year while those in other regions will be approached during the summer or vacation periods.

The actual meeting between the advisor and the student is purposely unstructured. Generally the alumnus will describe the nature of his work highlighting various aspects that would be of interest to the student. The ensuing discussion may cover a broad range of topics including recommended course work for a particular field, nature of client contact, and the work schedule in the particular practice.

The response to the initial phase of the program has been highly encouraging. To date seventy-five students have been assigned alumni advisors across the country. In the
Fall entering students will be invited to participate. Alumni interested in serving as advisors should be in touch with Assistant Dean Richard Badger at the Alumni Office of the Law School.

Other members of the Advisor Committee in addition to Mr. Levin are William Achenbach '67, Ingrid Beall '56, John McCarthy '32, Milton Shadur '49, and Robert Vollen '64.

ANNUAL DINNER

George Schultz, Director of President Nixon's Office of Management and Budget and former Dean of the University of Chicago Business School, was the speaker at the Annual Dinner of the Alumni Association on May 6, 1971. Over four hundred and fifty alumni and friends of the Law School, including members of the graduating class, attended the event held in The Guild Hall of the Ambassador West Hotel. Harry N. Wyatt '21, Chairman of the Three Year Fund for the Law School, reported that a total of $1,646,000 in pledges and gifts had been contributed by the conclusion of the campaign on December 31, 1970, against an initial objective of $1,600,000. Dean Neal acknowledged the exceptional leadership of Mr. Wyatt, Bernard G. Sang '35, Special Gifts Chairman, and Jean Allard '53 and Andrew C. Hamilton '28 who served as Co-Chairmen for Class Organization. He also commented briefly on Law School activities during the year.

CLASS OF 1951 REUNION

The Law School's Class of 1951 can boast many distinctions. From this class came two members of the House of Representatives, an Attorney General of the United States, three law professors, and a multitude of prominent practitioners from coast to coast. Its highest distinction, however, is that among all the Law School's classes, the Class of 1951 is the only one ever to have held two three-day reunions. On the weekend of May 21, 1971, members of the class returned to the Midway, as they had done ten years earlier, to relive memories and to renew friendships.

Nearly half of the class's 91 members participated in the reunion organized by Co-Chairmen Charles Russ and Jerry Specter. Alumni from Seattle, Spokane, Kansas City, Iowa, Pennsylvania, New York, and New Jersey joined large groups from Washington and Chicago for the festivities, which included a Friday reception, tours of the Law School building, Saturday dinner, and Sunday brunch. The University's Center for Continuing Education provided spacious facilities and lodging that were within easy walking distance of both the old and new law school buildings.

Highlighting the weekend were the dinner and skit on Saturday evening. Special guests and frequent targets of the skit were former Deans Wilbur Katz and Edward Levi; Professors Walter Blum, Bernard Meltzer and Max Rheinstein; and Dean Phil Neal. In song and verse the off-off-off Broadway musical poked fun and evoked memories. A sample (to the tune of "Rum and Coca Cola"):

When the Law Review went out
to dine
Delicatessen suit them fine—
Super brain need super dish—
Every day Gefilte Fish.

Just eat chocolate covered halvah,
Be like Abner Mikva.
Here's the menu. Worked for some:
Chopped Levi on an onion Blum!

The Washington contingent presented a topical number singing the praises of their two prospective Presidential candidates: Ramsey Clark and Paty Mink. Although prior commitments (the LBJ Library dedication in Texas and a commencement address in Hawaii) kept the two candidates from attending the reunion, Mrs. Mink was ably represented by her daughter, Gwendelyn, who is an undergraduate in the University.