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The University of Chicago Law School

Winter 1975

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The Case Method of Legal Education
The First One-Hundred Years

Max Rheinstein

American legal education is known for having developed its own peculiar system of instruction, the case method. The constantly growing number of European visitors to the United States has observed it in action. But yet it seems that in European circles of legal education it is not fully known what the case method really is. It even appears frequently to be misunderstood and misjudged. That is no wonder indeed. As practiced in American law schools, the case method is no uniform phenomenon. The term covers a great variety of ways of legal instruction. With some exaggeration one might even say that there are as many case methods as there are instructors in American law schools, and their number approximates two thousand.

At the time of its first application in 1870, the case method was a clearly circumscribed matter. Today, one-hundred and three years later, it no longer is. What has happened to the case method during this century; what was it in the beginning, what is it today?

The changes which the case method has undergone reflect the changes in the American views about legal education, which, in turn, are the effect of a change in the basic thinking about law, its essence and its role in society.

Far into the 19th century, in America as in England, law was regarded as a craft. Like carpentry, masonry, medicine, school craft or state craft, skill in law craft was acquired by doing. The young man who intended to earn a living from practicing at the bar apprenticed himself to a master. He accompanied him to court, and by doing yeoman's work in the office learned how to prepare and conduct a law suit, how to draft legal instruments and how to deal with clients and adversaries. The practical and really essential part of training in the law was supplemented by what was known as "reading in the law." One worked his way through that classic of the Common Law of England, Blackstone's Commentaries, or through its American version, the Commentaries by Chancellor Kent, or through the growing number of treatises on the major branches of the law which had been initiated in the 1830's by Joseph Story. That amazingly productive man was simultaneously a justice of the Supreme Court of the United States and professor of law at Harvard College in Cambridge, Massachusetts. Harvard, at that time was not yet a university in the continental-European sense, but a college similar to the colleges of Cambridge or Oxford in England, a school entered by young men at the age of 15 or 16, and

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*This paper was presented by Max Rheinstein, Max Pam Professor Emeritus of Comparative Law, on October 12, 1973 at the International Seminar on Legal Education (Seminario sull' Educazione Giuridica), convened at the University of Perugia by the Italian National Council on Research (Consiglio Nazionale delle Ricerche).
aiming at turning them into Christian gentlemen ready to prepare themselves for life in business or a profession and likely to interest themselves in public affairs. As in England some contact with the law was regarded as a desirable part of such a general education, and so chairs of law were established at several of the American colleges, the number of which was rapidly increasing. Attendance at the courses of law professors was natural for students who intended upon graduation to be apprentice lawyers. But colleges were not the only places where preparation to, or supplementation of, the practical training was available. Some attorneys found it stimulating and also profitable to collect apprentices around them and to guide them in their “reading” in class-like organized groups for discussion and lecturing.

In both kinds of law courses, those of the college and those of the non-academic law schools, the methods of instruction were similar. From one class hour to the next the students were assigned chapters from Blackstone, Kent or those books which came to be written by the college professors of law. A professor’s lectures would supplement, or serve as a substitute of, a book. Then the students had to “recite,” sometimes literally, what they had read or heard. Their understanding was tested by their being “quizzed” and then clarified and deepened by discussion. A touch of practice was introduced through exercises in written pleadings, in the elaboration of problems and through moot courts.

In the principal, i.e. the theoretical part of this kind of instruction, the law was presented “dogmatically.” Procedure, characteristically called “practice,” was regarded as not being teachable. It was to be learned by and in practice. Knowledge of the constitution was expected of every citizen. Administrative law had not yet been invented. Criminal law was too simple to require treatment. Law courses were more or less limited to private law and within it statutes were regarded as mere patches on the body of the Common Law; and the Common Law was a body of rules and principles that were not too numerous, that could be articulated in clear terms and arranged in a systematic order. Lectures and treatises based upon such a conception were hardly different from those of the contemporary law faculties of the European continent. Legal learning was book learning and the books were systematic treatises.

Doubts about that notion arose in the mind of the young man who was called in 1869 to rejuvenate the Harvard Law School, which, like the other parts of Harvard College, had fallen into a rut. New ideas were astir. Science, i.e. natural science, had become prominent. Science means observation of nature, experiment. Study from books was no longer sufficient. If they were to be sciences, the other fields of learning had also to go back to the original sources. If law were to be a science, it had to go back to its sources. And what are the sources of the Common Law as it had grown up in England and been transplanted to America? What else than the cases judicially determined? For the lawyer who wished to be a scientist, it was thus necessary to go to the cases, read them, study them and from them directly derive the rules and principles of the Common Law. From such study they would emerge in their pure form rather than in the distorted shape in which they would so often appear in the subjective and all too frequently contradictory treatises of secondary writers. The principles seen pure and true would be clear and not numerous and would by themselves constitute a perspicacious system in which rules of detail would reveal themselves as simple applications of general principles of a higher order. Besides, if one studied the law from the cases, he would necessarily become aware of the Common Law as a phenomenon unfolding itself in the course of history.

Such was the thought of Christopher Columbus Langdell, the Harvard graduate and young New York lawyer who in 1869 was called to Harvard and in the year following was made dean of the law department. The man by whom Langdell was brought to Harvard and who as President transformed the old college into one of the world’s leading universities, was Charles W. Eliot, by training a scientist, a scholar in chemistry.

For use in his own course on the law of contracts Langdell prepared a collection of cases of fairly large size, carefully chosen to present the rules and principles of the field in their historical development. Just as the chemist would formulate the principles of his science on the basis of the experiments, so Langdell’s students were expected by their own study of the cases to discover the underlying rules and principles. In this endeavor they were to be guided by the instructor who, through asking questions, would stimulate discussion with him and
among the students. The true rules of the Common Law would then become apprehensible. As an additional guide Langdell included in his first case book an appendix containing a systematic arrangement of the concisely formulated principles as they appeared to him. But this appendix was not to be "the book," not to be the subject of the students' study. It was to do no more than supplement the collection of the true sources, i.e. the cases. Appendices of that kind were soon dropped in the casebooks of Langdell and of his followers.

The number of immediate followers was small. Langdell's innovation not only met with scorn and resistance among his fellow law teachers, it was also disliked so much by his students that of the members of his first class only seven endured the ordeal to the end.

Among these seven holdouts was the man to whom the case method owes its breakthrough, James Barr Ames. Langdell was a scholar, but teaching was not his strong side. Ames was both, a scholar and an inspiring teacher. When he accepted Langdell's method of instruction, the students accepted it with an enthusiasm that infected more and more members of the faculty.

Among the students who were exposed to the new method was the one who perhaps more than any other helped to carry the case method beyond the circle of the law faculty of Harvard. From 1875 to 1878 William Albert Keener had been a student at the Harvard Law School. In 1890 he was appointed to a new chair at Columbia University, an institution which was ripe for rejuvenating reforms as Harvard had been twenty years earlier. Made dean by Columbia's new reform President, Seth Low, Keener brought to the place a number of young law teachers who were eager to apply the Harvard method of teaching law through cases. The most enthusiastic among these was Keener himself, who applied it not only in his own courses but incessantly worked as its eloquent advocate in extensive writing. In his own teaching Keener turned out to be master of the Socratic method. In his writing he directed attention to the pedagogical merits of the case method. Rules and principles inductively discovered by the students through their own efforts meant more to them than ready made formulas memorized from texts. But, beyond and above all, the method was more than a device to familiarize students with the law's rules and principles. It was a superb device to teach them the peculiar ways of legal thinking. It induced them first of all to pay careful attention to the facts of each case, to separate the legally relevant from the irrelevant. It compelled them to follow and scrutinize the lines of argument of the parties litigant as well as that of the court. These lines of argument have to be analyzed and criticized. In the court's opinion the holding has to be separated from the dicta. In connection with earlier and later cases one is then carried to the very heart of the art of the Common Law, that of evaluating the significance of a case as a precedent and to estimate its scope. The case method, Keener never tired to pronounce, plunges the law student into that very mental activity which is the distinguishing mark of the lawyer. Under the guidance of a master the young lawyer is given continuous exercise; it makes him think like a lawyer and, if the teacher is a master, it is apt to turn the student not only into a good but a superior lawyer.

It was this aspect of the case method, as the superb method in the art of legal thinking, to which it owes its practically universal adoption in American legal education.

Like their predecessors, Langdell and Ames had tried to teach the law, i.e. the contents of the legal order as expressed in a comprehensible system of articulated rules and principles. That aim may have been achievable in those days. But more and more did it appear that in the United States this aim was no longer attainable. Through legislation and through the often diverging practice of the courts of the several states of which the nation, the United States, is composed, American law tended increasingly to develop differently from state to state. Which state's law should be the subject of instruction? None of the leading law schools wished to be provincial. Students as well as teachers were attracted from all parts of the vast country. Harvard had no intention to teach just the law of Massachusetts, or Yale that of Connecticut, or Chicago that of Illinois. The "national" law schools were to teach American law. But what is American law? It is a set of common principles and traditions and, above all, a common way of thinking, of arguing, trying and handling cases in court and out of it. The essential feature common to the law of all states of the United States is the Common Law and the Common Law is basically a common method of thinking.
If the law schools in the United States wished to avoid provincialism, they had to concentrate on the modes of Common Law thinking, and the most effective way of training in this method is the case method. Pedagogic concentration on legal method became necessary for an additional reason. Around 1850 American law was, perhaps, still comparatively simple. With the growth of the United States into an industrial colossus, the legal matter became complicated and by the federal structure of the nation complexity increased. Social problems hitherto given little attention required regulation through such rapidly expanding new fields of law as administrative law, labor law, tax law, trade regulation and what not. The body of American law became a vast and complicated object. No single human mind could possibly “know” it, teach it or learn it.

But was the method of training lawyers through cases, and exclusively through cases, the ideal one for the country as it developed in the 20th Century? The same circumstances which produced the rapidly increasing complexity of the American law also pushed in the direction of change, of reform. Not that the Common Law had ever been immutable. The decades following the American Revolution had been a time of pronounced dynamics. The legal system that had originated in England had to be adapted to the different geographic, economic, social, political and ideological circumstances of America. The later 19th century was a period of comparative stability. But with the profound changes that set in around the turn of the century and of which the public became increasingly aware, demands for reforms, profound social reforms indeed, become irresistible.

Law reform, one might think, is the task of the legislature. In the United States, this proposition does not entirely hold. Under the federal system, legislative power is divided between the Congress and the legislatures of now 50 states. The Congress is overly burdened and in the early part of the century its complexion was predominantly conservative. Later on it was at times so overburdened that it was incapable of moving on basic issues. Of the State legislatures many were conservative too, especially in the Southern part of the country, where reform of discriminatory race legislation was demanded with increasing fervor.

In the great majority of the states the legislature was not so organized as to enable them competently to deal with matters of private law, procedure, or commerce. Advocates of law reform had thus to think not only of the legislative process but also of the courts, which in the tradition of the Common Law had often engaged in what has for a long time been called judicial legislation. Judicial attitudes had to be considered for an additional reason. Through the exercise of their power of judicial control of the constitutionality of legislation American courts can stop legislative reforms in their tracks. In the early decades of the 20th century, the Supreme Court of the United States had in fact consistently stopped efforts of social legislation. American advocates of law reform thus had to pay close attention to the activities of the courts, they had to think not only of the judges but of the attorneys too as well as of the steadily growing number of lawyers in the public administration and, of course, of the hosts of legal advisers of business. If law was to be a device of social engineering, the legal profession in its totality had to be imbued with the reformist spirit. But it also meant that the lawyers’ competency was to reach beyond the law. If lawyers were to be the reformers of society, they had to know not only the law but also society. Lawyers had to be social scientists. The social sciences had to be integrated into the law. These were the postulates of Roscoe Pound, of his companions of the school of “sociological jurisprudence” and of their more radical brethren, the “realists.”

Law teachers of the younger generation eagerly embraced the new ideas. They engaged in passionate disputes about legal methodology and in their scholarly activities turned from the hitherto dominant dogmatic inquiries and systematic presentation to incisive monographic investigation of specific problems of social life, in which the exploration of the social facts was the indispensable preliminary to the fashioning of the proper legal solution. Law was no longer visualized as a set of fairly well articulated rules and principles. It now appeared as the technique of adjusting conflicts of individual or group interests in the way best conforming with the public interest of the community at large, a process in which change should be achieved without violent breaks with tradition.

The changed attitude toward law, the new view
of the role and function of the lawyer required a reorientation of legal education. The case method came under critique. What was criticized, however, were not the ideas that the end of legal education was the training in legal thinking or that such training should be achieved through guided self-study. The object of the critique was the limitation of the study material to cases judicially determined. If the lawyer was to be the expert in social engineering, if the law had to be "integrated with the social sciences" and if the science of law was then to become one of the social sciences, the materials to be studied in the course of legal education had to be widened far beyond the opinions reached by appellate courts. If carried out consistently, the new ideas would amount to no less than inclusion in the lawyers' training of at least economics and sociology, if not also of history, psychology, and philosophy, not to speak of the natural sciences. Obviously such a course of study threatened to submerge the law proper. Besides, the job staggered the imagination and was simply beyond the scope of the humanly possible. And so one asked what could be done, what ought to be done?

Amidst a welter of turbulent dispute, a scheme of sober investigation was initiated by the faculty of the Law School of Columbia University. For two years the Faculty, in full sessions or in committees, met, at times every week, to discuss the ways in which the new needs might be met. In the end the Faculty found itself split. A minority group thought that the task called for the radical transformation of the Columbia Faculty into an institution devoted entirely to research into the relations between society and law, and freed from all burdens of instruction. As the majority was reluctant to consent to such a radical break, in 1932 the minority left Columbia and was welcomed at the John Hopkins University in Baltimore, Maryland, a famous institution of learning which, however, had never so far comprised a department of law. Now it established an Institute of Legal Research that should devote itself entirely to the study of the facts of the legal life of society. The new Institute, staffed with eminent representatives of the realist and sociological wing of the legal scholars, was greeted with great expectations. But it was short-lived. After just one year its financial endowment was wiped out by the Great Depression. Its only publication was a two-volume investigation into the detailed functioning of the divorce courts of two states, Maryland and Ohio, a work that has remained a model for the flood of socio-legal investigation that was produced in later years. The members of the Institute staff were dispersed among a number of law school faculties, a fact which in the end strongly increased the influence of the school of the New Jurisprudence.

The majority of the faculty of the Columbia University Law School held on to the idea that it ought to remain an institution of training for the legal profession. From this it followed that the members had to engage in both instruction and research, that their research ought to involve the relations between society and law, and that the results of such research ought to find expression in teaching, especially in the elaboration of new books for study by the students. A whole series of courses and a whole set of books for them were indeed elaborated.

They did not constitute a radical break with tradition. Their aim still remained that of training students in the methods of legal thinking and, as a basis thereof, to convey to them that measure of information about the contents of the law that would appear to be indispensable. One also remained convinced that the students should educate themselves by their own study of original materials and that such self-study ought to be guided by socratically conducted classroom discussion. One also held on to the notion that the training in legal thinking could best be obtained through the study of opinions of appellate courts. But, and this was the innovation, cases should no longer be the only, the exclusive, material of study. The students should also be made acquainted with data about social life. They ought to be given materials from which one might observe the forces by which the law is shaped and the impact which the law has on the life of society. In particular the students' eyes ought to be opened to the social effects that have flown or that might flow from the decision one way or another of problems presented for judicial determination.

It is not easy in clear terms to state the goal. It was even more difficult, much more difficult to implement the idea. How difficult that task is and in how many different ways it can be approached, is illustrated by the books which emerged from the Columbia discussions and by those innumerable books of legal instruction which have been published since.
The number of such new books is vast. It goes into the hundreds. The aim of adapting legal education to the new approach to law and the lawyer's role in society is being universally accepted. There may perhaps be one or another law school practicing the old case method of Langdellian style or even the pre-Langdell method of lecturing. If it exists at all, it lives in obscurity along with another method of legal education that once was more readily available, that of studying law through the letters of correspondence schools combined with apprenticeship in a law office. Today, the regular course of legal education is attendance at a law school, most of which are now parts of universities and at practically all of which the level of instruction and of creative scholarly work has been rising steadily in recent decades. American law schools still differ in quality. They can be arranged along a scale from the half dozen or so schools on the top all the way down to institutions of mediocre caliber. But at present the techniques of teaching law by "cases and other materials" is in almost universal use.

The books used in this kind of teaching are no longer entitled "Cases on the Law of so-and-so." The new title is "Cases and Other Materials," or, in most recent times, "Text, Cases and Other Materials."

What are the "other materials?" A great many of them are meant to supply the law student with extra-legal information, with data on economic and social life, or practices of business and finance, on history, psychology, criminology, on the cost of litigation, on the actual working of the administration of justice in all its branches from the Supreme Court of the United States to the policeman on the beat, on the activities of administrative agencies. They are selected so as to throw light on the law in its character as a result of social forces and used as their regulator and shaper. They are of the most varied kind; statutes, excerpts from learned writing, news items, forms of commercial transactions, etc.

But the "other materials" are not all "non-legal." The new books no longer neglect statute law. This is true not only in those fields of the law which are based on statutes such as taxation, social welfare or trade regulation, but also in those fields of law which are based on those statutes by which the traditional fields of the Common Law are being supplemented, modified and, often enough, profoundly transformed. Prototypes must of course be selected from among the variety of state statutes. The origins, background and impact of legislation is illustrated by passages from legislative debates, hearings, committee reports and other pertinent material. Where pertinent, as for instance, in administrative law or taxation, the endeavor is made to introduce the student into the mass of administrative regulations. By the growing number of American law teachers who have recognized the didactic value of comparative law, references to foreign solutions are occasionally used to stimulate thought about the American students' own law.

Since training in legal thinking is still regarded as one of the principal aims of legal education, cases continue to fill many pages of the voluminous new books. As in the Langdellian phase, they are printed without the syllabus which in the regular sets of reports tries succinctly to formulate the legal rule or rules on which the decision is based — based, that is, on the view that was held by the reporter at the time of reporting and which may or may not be shared in later case law development. So it has remained to each student for and by himself to interpret the case and see his interpretation tested in the class room discussion. In this important respect the case method is still a mainstay in American legal education. It has proven to be by far the most effective device to turn a student into a lawyer, i.e., a person who knows how to use concepts, rules and institutions, to give close attention to facts, to use precedent or to distinguish the new case from the old, to recognize the interests at stake, to see the individual issue within the context of the public interest, in other words, to think as a lawyer.

How much of a course book should be "law," how much "other materials"? The decision is left to the individual writer. But the space at his disposal is limited. The book ought to constitute the study material for a course of normally 40 class hours, more or less, in which the contents are to be "covered." That means the book should comprise no more than 1,000 pages, preferably less; but an occasional book has close to 1,200 or even 1,400 pages. The law material is still indispensable; the "other materials" are theoretically without limit. But what goes into the book must be limited, strictly limited indeed, and limited to what is essential for the task of training in law and to what is understandable to
law students. A practical limit is of course given by the author's own range of knowledge. The task of selection is delicate. Early enthusiasm for the inclusion of large masses of "social" material has yielded to more sober deliberation. In successive editions of a coursebook the "social" material is likely to shrink. After all when entering law school, the students have already spent three or, more frequently, four years in college, where they can be assumed to have received a good dose of instruction in the social sciences.

In the compilation of "legal" material, selection has, of course, been necessary even while it was still limited to cases. Langdell and his early followers were inclined to include in their case books a good many decisions of ancient vintage, especially classic decisions of English courts. But as the mass of modern cases has swollen gigantically, authors find themselves compelled more and more to concentrate on modern cases by which contemporary problems, developments and methods are demonstrated. And should the case material be spread over the country at large, or should it be concentrated upon a few states that would serve as national prototypes? Should emphasis be placed on cases apt to illuminate as broad as possible an area of the substantive law, or should they primarily teach legal method? And which method: that of the practicing attorney, the trial judge, the appellate court judge, the legislator, the draftsman, the legal counselor, the administrative officer?

If the cases are to each more than legal method, if the book is to give some idea of a legal field as a whole, its problems and its institutions, the cases presented in extenso or in condensed form, must be supplemented by notes summarizing other cases, or at least by references.

Scholarly writing, which occupies a prominent place in the United States, is nowadays to be found not so much in comprehensive treatises as in monographic studies, largely contained in law reviews. Excerpts are frequently inserted in course books. But the book must also contain bibliographical references. Should they be so numerous as to be of help to the user who has graduated from law school and uses the course book as a starting point for research on a problem encountered in practice; or should they be addressed primarily to students interested in pursuing a point that has occurred to them in the course of study? The character and scope of references must vary with the purpose or purposes pursued.

An entirely new feature of the contemporary course book is constituted by text passages of the author himself. In the old-type case book, text passages were taboo. In fact, not only the author of a case book but also the teacher in the class room was expected as little as possible to reveal his ideas. Students were to form their own views and they were to derive them directly from the sources, uninfluenced by the subjective opinion that an author or teacher might have. Cases inserted in a case book are likely to deal with controversial matters. Which answer is the right one? The student ought to find it by his own wits, guided, it is true, by the instructor, but not so impressed that the teacher's view would be accepted unquestioned. No wonder then that freshmen students have been inclined to wring their hands in despair of the "confusion method."

Inducing the students to form their own views, to think autonomously for themselves, is still the aim of American legal education. But teachers and course book authors no longer scrupulously refrain from expressing views of their own. Indeed there are course books which are so conceived that they not only reveal but even propagate the author's views on issues of social policy or legal method. The books now cover by concise texts parts of the field that neither need nor lend themselves to presentation by cases. Space and time can thus be saved for topics for which study of source material is appropriate.

Analogous considerations have influenced the work of the classroom. It no longer consists entirely in the discussion of individual cases. Parts of the course book are merely assigned to the students for reading, occasionally tested by questions of the instructor, and supplemented by discussion which students may choose to initiate in class or in the professor's office. Now many a teacher even resorts to straight lecturing on those parts of a course which in his view can be presented in this way better than by time-consuming and often laborious discussion of source material.

Present day American legal education does not follow one single pattern. It never has, not even in the hey-day of the case method of the Langdellian style. Even where instruction is based entirely upon
cases, it varies depending on the case book used and, even more so, on the personality of the instructor. Under the modern approach case books greatly vary in content. In 1970, the teacher of the law of Contracts could choose among six books. There were seven on Torts, five on Conflict of Laws, six on Family Law. No two professors would use a book in the same way, but quite a few professors make up their own sets of materials, try them out in Xerox form, and elaborate them into printed books later on.

Variety is increased by the possibility of inventing new courses and regrouping material under new headings such as Trusts and Estates, Family Wealth Transactions, Urban Real Estate Transactions, Estate Planning, Transnational Law, or what not.

American law teachers are fond of experimenting with new books and with new methods of teaching, such as teaching law by assigning problems for discussion or for drafting, or by using audio-visual or programmed material.

The bulk of the curriculum is likely to continue to be presented in that method which, while still called case method, is no longer limited in its material to “cases.” But in addition to its “courses” a law school regularly employs additional devices. In seminars students usually of the third year, but occasionally also of the second, are permitted to engage in research on an almost infinite variety of topics. In a rapidly growing number of law schools the students are given an opportunity to meet practical problems by engaging in guided and supervised work of legal aid for indigent people. There are the moot courts and there is that unique American institution, the law review. Edited by students, these periodicals are the organ of publication of the bulk of the learned work done by the legal scholars of the country. Law review work is the privilege of the top students of a law school. Available to all is the constant accessibility of the professors. Each of them spends his whole working day in his office at the law school building. The door is open, literally, and every student can walk in at any time. On the wall of the Faculty Lounge at the Law School of the University of Chicago, we have framed the picture of a professor and a student talking to each other, together with the citation from that American classic, The Education of Henry Adams: “The only privilege a student had that was worth his claiming, was that of talking to the professor, and the professor was bound to encourage it.”

The number of students is rarely so large that personal contacts between professors and students could not develop. The ratio between professors and students tends to be around 1:16.5. At the University of Chicago Law School we take, for instance, no more than 160 students a year. The total student body is around 450, the number of professors 26.

An American law school is a lively place. It is also a place of hard and intensive work for both professors and students. The “case method” requires preparation for each class hour and reviewing work to digest, tie together and systematize the discussion of the classroom. We usually figure that each class hour requires about three hours of work outside. The normal load of instruction for the student is 15 hours a week, so his weekly work load amounts to 60 hours more or less.

The case method, both old and new, has been criticized. The Socratic discussion is difficult in classroom application. It is more difficult than lecturing. It requires careful and ever renewed preparation by the instructor. In the hands of an inept instructor it can be exceedingly dull, and being inept in the manipulation of the discussion method is more frequent than in lecturing. If, and it still is by no means rare today, instruction concentrates on the analysis of cases, students are being bored by the monotony and repetitiveness.

The method is time-consuming. The incisive analysis of one single case can require two or even more class hours. How can one thus “cover” a whole field of the law in, normally, forty class hours? The answer is: the aim of instruction is not that of presenting any field of the law, but to teach the method of legal thinking. But even the most acute legal thinker cannot do without some modicum of the contents of the law. If he is to understand the meaning of policy, he must know the problem, and that cannot be achieved without presentation of fairly comprehensive segments of the socio-legal order. But comprehensive survey is not easy to combine with the incisive discussion of particular problems, especially when one tries to combine analysis of policy with that of judicial or advocational method. So the method is being blamed for failing to give the students a systematic comprehension of the legal
system as a whole or even of any one of its branches. It is blamed for teaching the students the details of the trees without acquainting them with the layout of the forest.

The case method is also apt to give students a distorted view of the law. The cases up for discussion tend all to be taken from the published reports of courts of last resort. But how many disputes reach these courts? By far the largest proportion of disputes are never brought before the courts at all. They are resolved by negotiation, mediation or arbitration. Of the cases brought before a court, the great majority is terminated by dismissal or settlement. In the trial court disputes more frequently are about points of fact than questions of law. Resort to a higher court must be based upon an alleged misapplication of the law. Appellate proceedings are time-consuming and expensive. So the proportion of cases that reach a court of last resort is minimal, and out of this number of cases the author of the case book is likely to have picked the most troublesome, those in which the law has been uncertain and perhaps also remains uncertain. Students principally exposed to such material can easily obtain the impression that everything in the law is uncertain, that there is nothing to hold on to.

All these critiques are true, true that is up to a point. The method can be dull, a waste of time, insufficient or misleading, if it is applied by an inept instructor, and the method is hard to apply, harder than the lecture method or the recitation method. The instructor's preparation must be comprehensive and perpetually renewed. Above all, the instructor must be a teacher. Ideally he ought to be inspiring. In any event he must be firm but patient, lucid but not oversimplifying; he must have the gifts of pedagogy; and who has them all?

In spite of its difficulties, the method of Socratic discussion is working well in the law schools of the United States. It is criticized often and at times bitterly by students, professors, and members of the legal profession. But nobody has so far invented any method that would promise to be more effective. By their fruits ye shall know them. And the fruits, the graduates of at least the “better” of the American law schools, have proved their mettle as practitioners, as administrators and as policy makers.

However, one fact remains undeniable. The discussion method is expensive. If the method is to function, it is necessary that the law school have an adequate building with classrooms, seminar rooms, offices for the professors, lounges for recreation and socialization. If each professor is to be not only a teacher but also a scholar, he must have adequate secretarial help. Finally, both professors and students must have a library, and even if the library is not to contain a full collection of American law, it must have a minimum of some 30,000 volumes. If, as the major law schools do, the library is to cover England and the other Common Law countries, it must contain some 20,000 volumes more. And if it is comprehensively to cover only the other leading legal systems of the world, the number of volumes must surpass the 100,000 mark. The larger the collection, the larger, of course, must be the library staff.

An American law school is expensive. Consequently, tuition tends to be high and funds for scholarships must be solicited continuously. Fortunately, as well situated members of the legal profession, the alumni are feeling a continuing affection for their old school which finds expression in generous giving.

In order to evaluate the American method of legal education it must be seen at work and in the full context of American life. I have tried to present some ideas of what the so-called case method is and how it developed as the way of preparing young people for the manifold functions of the legal profession of the United States. The American way of legal education may well contain features which might be suggestive for the legal educators of other parts of the world.

[At the end of the third day of the meeting, Professor Rheinstein was requested to make the concluding comment. He responded with the following remarks.]

I hope you do not expect me to present a summary of the extensive and searching discussions which we have had these three long working days. It would go beyond my capacity and probably beyond the capacity of anyone to summarize all this within the few minutes which we still have at our disposal. So, what I am proposing to do is to state a few of my personal impressions, ideas which happened to come to me as I sat here and listened to the reports and to the questions, answers and discussions. The first statement I should like to make is that the discussions have been of an extraor-
ordinarily high standard. The enterprise is officially

called a seminar, but I think a better name would be

super-seminar. We have been privileged to listen
to the expositions of leading experts, of scholars and

legal educators who have given profound thought
to the problems of legal education, and they have

taken time and space to us about it not in isolation
but, and this has been the special feature of

this super-seminar, they have placed legal education

into context, into the context of the theories which

we have about law in general: What is law? Is law

a system? Is law an art? Or a technique? Education

has been placed in the context of analytical juris-

prudence and philosophy. Legal education has also

been present in our discussions within the context

of educational systems in general. Thus we have

seen—perhaps this might have been obvious from

the beginning, but the obvious needs every now and

then to be restated—that if the educational systems

are different from country to country, obviously the

systems of legal education cannot be the same.

Legal education has been placed in the context of

the structure of society and the process of the

present transformation of society, the transformation

of our society in technical aspects—industrialization,

the expanding of the world, the inclusion of regions

which until fairly recently have been regarded as

far away, perhaps as exotic. We now see the world

as a whole with all its tensions, with all the changes

of its needs, its policies and ideologies. This, I

think, is the most essential feature of any attempt
to deal with legal education. It has also become

obvious at these discussions—again I speak of some-

thing which should have been obvious all along,

but which apparently is not, certainly not to all

participants—that reform of legal education cannot

mean a complete break. It cannot mean the recep-

tion in one part of the world of an educational sys-
tem developed in another. But we can and must

expect in all parts of the world the adaptation of

their systems of legal education to the changed cir-
cumstances of their societies. That means, first of

all, legal education must be adapted to the changed

ideologies. It has been stated here repeatedly, at

the very outset and time and again, that the bour-

geois age, the bourgeois society of the 19th century

and the early 20th century, is giving way to the

welfare state, or the service state, as one may call it.

It is one of the peculiar features of this transfor-
mation that services are expected of the state which it

has never rendered before, but also—and perhaps

this has not been fully emphasized here—the inclu-
sion of the masses into the shaping of the state and

of society. It was certainly one of the distinctive

features of older times that that part of a society

which counted was rather small. For a long time it

was more or less limited to the aristocracy. Then

we had a broadening by the coming of the bour-

geoisie in all its variants. Now the masses are

streaming into the fabric of society; they state their

demands and they take an active part in the affairs

of the state. With this we have complexities and

complications, and so arises the need for adaptation.

Now what does that mean for legal education? In

the first line it requires its adaptation to the change

of the ideology from the bourgeoisie society to that

of the "new" society. What that new society will

be, or even what it is at the present time, we have

only vague notions. We have all kinds of ten-

dencies, radical and reactionary and in between,

but they all have in common a feeling that some-

thing must be done, that adaptation must be made.

So probably the greatest need for legal education

is the influx into the system of individuals who are

imbued with the new spirit, which, as far as the

law is affected, calls itself the New Jurisprudence.

This process cannot be brought about by artificial

or organizing means. It has to come by itself. It will

come by itself—it is already coming by itself. We

see a change of spirit in the law faculties and law

schools of all the countries in which we have heard

here. This is essential. There is a change of spirit,
a new approach, a new ideology which, I repeat,

should not bring a break with the past but rather

an adaptation in which traditions are maintained.
The new ideology requires practical implementa-
tion. Out of the mass of practical devices I wish to

pick out only two. One is the expansion of the

subject matter of legal education. We can no longer

stick to what has been called the law. We shall

have to look beyond the law into the field of social

sciences. But that does not mean that a lawyer is to

be turned into a social scientist. It cannot be done.

It is difficult enough to learn to be a good lawyer,

and if we try to do too much we shall achieve

nothing. But what we can achieve, what we must

try to achieve with all available means, is the open-
ing of the mind, the sensitization of the lawyer, the

opening to the world, the awareness that the law
does not operate in a vacuum, that it cannot be
studied as a self-sufficient entity.

But there are practical limits. If we are to deal with the economic, political, religious, philosophical and sociological aspects of the law, we have to sacrifice in the curriculum some of the attention which we have traditionally given to certain fields of the law. We shall have to limit the time that has so far been given to private law. That means that we shall pay a little less attention to the legal “System” which has been mentioned here so often, but which primarily has been a system of private law. But we must deal with such matters as taxation, monopoly regulation and social welfare legislation, and if we deal with them as they ought to be dealt with, something else has to be sacrificed. That is one aspect—the expansion of the subject matter with a corresponding limitation of certain other traditional subjects which have long been the favorites of legal education.

The other practical implication is that we have to intensify legal training. Perhaps the model of intensive legal training is that which we have developed in the United States and which has been presented here so persuasively by my colleague John Merryman. But the intensive training which he has described is not the training which all American lawyers receive. Mr. Merryman used the term “meritocracy” for this American legal education. It is, but American legal education is simultaneously democratic too. That means that almost anybody who has gone through college—and everybody who has a high school certificate can get into some college—can also get into some law school. We have in the United States about 250 law schools. There is a top group which consists of not quite a dozen. Below it you have a whole scale all the way down to law schools which are, to put it mildly, not very good. The very poor ones are not numerous. The general level has been rising continuously and most of the law schools are quite good. But a good many of the law schools at the lower end of the scale are night schools, where neither the students nor the professors are full time. Certainly not all of the schools which do not belong to the top group can give such an intensive training as the top schools give, and certainly not all of those who pass the bar examination are so beautifully trained to be social engineers, policy makers or leaders of society.

Here I touch on what I regard as one of the most troublesome problems with which European legal educators have to cope. Those American law schools which aim at the intensive and comprehensive training of policy makers can pick their students, and they pick them with care. They pick them out from a vast pool and they refuse to take the less well qualified students. You in Europe have to take everyone who has graduated from the gymnasium or the liceo. In addition, you have the problem that the law faculties have traditionally been the place for the young man or woman who has no other interests in anything in particular. He who has no great interest in anything is inclined to take refuge in the law. After all, the law degree opens many doors and is regarded as not too difficult to obtain. Consequently, you have vast masses of students faced by a very small number of professors. Here I see one of the really tough problems of European legal education reform, the problem of how to separate the sheep from the goats. Can you find ways to develop a two-track system, one track for the mass and another for the elite? One might think of a number of special schools for the particularly well gifted. Perhaps the most outstanding illustration of this type is Japan with its Legal Training Institute which takes about 250 or 300 out of the several thousands who every year graduate from Japanese law schools. Only those 250 or 300 can enter the legal profession. Obviously this Japanese system is too rigorous for Europe. It would not be politically feasible. But selection and diversification might be brought about in an informal way, simply through individual members of law faculties. It just so happens that in every law faculty you have some men who are excellent teachers and who have a great appeal to large numbers of students. But there are others whose minds and whose demands are so rigorous that the students, at least the mass of the students, stay away. From my own university days I remember that the law faculty had about three or four men who were extremely exacting, extremely rigorous. They were the teachers of a group of people who have had remarkable careers and have achieved positions of leadership. This informal way of long standing should be kept in mind in all planning of legal education. It would not require a great reform. It would simply continue something which has always been there, and always will be there.

Let me add one last word about a feature of
American legal education that appears not to be fully understood abroad. The method of American legal education is frequently called the case method. It has been repeatedly emphasized here that that term is misleading. Perhaps at one time law teaching in America was done exclusively by the use of cases. That time has long been past. Our materials for legal education are varied. Of course, we use cases, considerable numbers of them, but the cases are not necessarily the mainstay. We present the students with a lot of material which they are supposed to read and study. The materials may be statutes or legislative debates, discussions or reports. They may be discussions of bar associations, inquiries by psychologists or economists or sociologists, or they may be statistics, or even poetry or fiction. We use all and every means; we also use lecturing and perhaps every one of the several thousand law teachers in American law schools may have his own method. But there is one feature which is common to all American legal education, and which ought to be emphasized. It is not the use of cases. The distinctive feature is self-study. Our system is not so much a system of legal education, as it is a system of legal study. We expect our students to study law from materials which we hand to them and which we expect them to read critically. We thus rely on self-study, which, of course, we stimulate, and which we try to guide by classroom discussion to be carried on among students or with the instructor; and we supplement it with such teaching devices as moot court, law review, or legal aid clinic. But the distinctive feature of American legal education is the reliance on the student's own efforts. The subject matter is not given to the student by the professor. No, he has to get it himself, with the aid and under the guidance of a professor. This feature of American legal education is transferable. It could well be tried outside of the United States.
Doctors and Lawyers: War and Peace

Bernard D. Meltzer*

I am conscious of an elementary rule for lawyers appearing before the United States Supreme Court: "Explain how you got there." You are entitled to a similar explanation from me. Our Chairman is my physician. When he invited me to speak to you, I remembered that he once had made a house call on me—the only time, in fact, that I had asked him to do so. Plainly, I had to treat his invitation as a command.

When I asked him how I should carry out my assignment tonight, he was kind enough to give an intelligible prescription. First, he said, avoid clichés and, second, be brief. At first blush, his advice seemed admirable, but a more thorough examination turned up several problems. First, the avoidance of clichés on an occasion such as this might involve a massive culture shock, too severe for graduates exhausted by the rigours of examinations, even under a pass-fail system, and too severe also for their families exhausted by the financial demands of professional education. As for brevity, the notion of demonstrating that a lawyer could be brief tempted me, but only for an instant. I was saved from a commitment to such unprofessional conduct by my memories of waiting in physicians' ante-rooms, crowded with patients, whose number suggested to the uninitiated that the doctor needed visible demonstration that he was loved or that he was indifferent to the value of anyone else's time. As a result, my visions of sweet revenge are doing battle with your Chairman's suggestion of brevity. How it will all come out, only time will tell.

I propose to say a word, first, about the purpose of law as it impinges on the discharge of your professional responsibilities and, second, about the changes in our culture that underscore the need for reciprocal understanding and cooperation between our professions, among others. I must begin with a caution and a disclaimer. My own professional interests are remote from some aspects of matters, such as malpractice litigation, which, I understand, stir your interest and, from time to time, your sense of outrage. This caution is related to my disclaimer: What I shall have to say is not intended to be legal advice, and if you should decide to bring a malpractice suit against me, it would, I believe, be dismissed on the ground that your reliance on my remarks as a basis for action, rather than reflection, would be wholly unwarranted.

The essential enterprise of law is to subject men to the governance of externally imposed rules. In an ancient and celebrated declaration, which we have special reason to recall at this melancholy moment of our history, Lord Coke advised the King of England that even the Crown was subordinate to God and the Law. And so it is, I need not remind you, with the medical profession, which is increas-

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*Bernard D. Meltzer, James Parker Hall Professor of Law, delivered this paper at a meeting of the University of Chicago Medical Alumni on June 7, 1973.
ingly entangled in a web of law, enforced by an uncongenial system of reparations and penalties.

The operation of that system in medical malpractice cases has spawned a cluster of problems that were said to be so profound by President Nixon that he directed that a Commission be established to deal with them. That Commission, established in 1971, filed its report in 1973. I will draw on some of the findings of that report as I attempt to provide some perspective for the web of legal, medical, economic, sociological and psychological factors that make up the malpractice problem.

Although I don't want to be unlawyerlike by failing to emphasize the gloomiest contingencies, I venture to say that fears of legal liability expressed by some competent doctors seem extravagant to me. Thus, the Commission's statistics, although they indicate that the tempo of malpractice litigation has been increasing, also indicate that the risk of exposure for physicians as a group is relatively low. I recognize that "relatively low" are weasel words and that it is a human failing to minimize the risks that others bear. Nevertheless, you may find one of the Commission's statistics interesting, i.e., on the basis of the claim experience reported in 1970, there is less than one chance in 100,000 of an incident occurring that will give rise to a medical malpractice suit each time a doctor or a dentist treats a patient. This figure is obviously quite crude; it assumes that the incidence of malpractice claims is a matter of chance. It does not purport to reflect the disproportionately higher risk borne by surgeons and anesthesiologists, among other important variables. Nevertheless, some of you may get some comfort from the crude figure I just mentioned.

There is one situation in which fears of liability seem plainly to be exaggerated and may be a rationalization for other concerns. I refer to the Good Samaritan situation, the rendering of emergency aid by a physician who happens to see an accident. The Commission stated that there was no officially reported decision in which a physician had been sued for his efforts under those conditions; except for one case recently filed in Hawaii, which incidently has a good samaritan statute; it also reported that it had no information on unreported cases or settlements. Finally, the Commission reported that 50% of a group of physicians recently responding to an AMA poll indicated that they would not render emergency care regardless of whether a statute protecting good samaritans was in effect. I am skeptical that that poll is a reliable indicator of what doctors would do in a crunch. In any event, the Commission's findings suggest that neither the actual nor the anticipated incidence of litigation explains whatever reluctance there is among doctors to serve as good samaritans. Crime in the streets is probably a much more important factor than the law in the books or the law in action.

Whatever the magnitude of the risk imposed by the law, it is a familiar argument that the doctor's plight is essentially the same as that of other citizens, who are increasingly subject to regulation, and that doctors, like others, can protect themselves by insurance at a price, and thereby shift the risk of liability, and through the pricing mechanism can distribute most of the costs of insurance to the consumers of medical services and third party payors. These points are, I believe, valid but not unqualifiedly so.

Insurance, while it can protect against direct financial losses, cannot protect against more subtle but quite important threats posed by malpractice litigation. Insurance plainly cannot protect against the wound to one's sense of competence and dedication or to one's name; nor can it protect against the undermining of that peculiarly important ingredient of treatment—confidence in the medical profession—or against the diversion of energy for depositions and court appearances in the demeaning adversary environment of a trial. It is understandable, although deplorable, in my view, that Dr. Northrop, a member of the Commission, reacted to malpractice litigation with this prescription: "Practice defensive medicine. And above all, and this is the most important thing, despise what could and should be honored, jurisprudence."

I shall return to this comment about jurisprudence in a moment. What is of more fundamental importance to the quality and availability of medical care is the doctor's exhortation to practice "defensive medicine." Defensive medicine in this context calls for some definition. Let me use the Commission's, that is, "the alteration of modes of medical practice, induced by the threat of liability, for the
principal purposes of forestalling the possibility of lawsuits by patients as well as providing a good legal defense in the event such lawsuits are instituted.” The Commission broke down this definition into two subgroups, “Positive defensive medicine,” it added, “is engaging in a test or other diagnostic or therapeutic procedure which is not medically justified, for the sole or primary purpose of preventing or defending against the threat of Liability.” And “negative defensive medicine” is the failure to take steps because of litigation considerations even though such steps are likely to benefit the patient.

The Commission referred to various opinion surveys that indicated that 50% to 70% of the physicians polled said that they engage in defensive medicine. It is not, however, clear that the pollsters used the same definition as did the Commission. In any case, the Commission found that the extent to which defensive medicine is practiced is unknown. The Commission did not, however, specify with any particularity the medically unwarranted action that would be a shield against liability, and as to some exposed specialties, such as anesthesiology, it is hard for an outsider like me to guess what they would be.

The Commission did suggest, although somewhat delicately, that ethical questions were raised by the practice of defensive medicine. Plainly, positive defensive medicine involves over-utilization of health care facilities and strains the resources of medical delivery systems and of patients. And negative defensive medicine may lead doctors to play it safe because of remote and insurable legal risks even though immediate medical considerations may call for bold innovation.

I do not mean to underestimate the instinct for self-preservation or to presume to be your moral tutor. But I cannot refrain from raising the question of whether defensive medicine as defined by the Commission does not deserve unequivocal professional condemnation.

The answer implied by the Commission is that such condemnation would be a futile gesture unless it were coupled with a reform of the abuses inherent in our liability system. That answer is, in my view, unacceptable, first, because abuses in the legal system do not warrant treatment designed to protect the doctor and, second, no matter what changes are made in our earthly legal system it will remain imperfect.

I do not mean to suggest that lawyers, or doctors, or citizens generally, should be complacent about the defects in our legal system. Plainly, our professions, severally and jointly, must work harder in the interest of reform. And, I would add, my colleagues have not been idle. This is not the place to assess their efforts, to appraise alternatives to existing standards of liability and damages, or to recite the difficulties of achieving the political consensus which is the prerequisite for legislative reform. But it is, I believe, appropriate to remind you that the law has as its ideal rational standards of performance and accountability, that it looks for such standards wherever it can find them, and that law-making institutions—courts as well as legislatures—will give weight to the judgment, experience, and integrity of doctors.

The law must, however, resolve conflicting claims and values. And so doctors, like others, may be heard but not heeded by the law’s institutions. But, contrary to Dr. Northrop, I urge you not to despise jurisprudence but to care for it enough to help improve it. The alternative to jurisprudence, as the doctor used that term, has, after all, been the fist and the club and modern improvements thereon. And the consequence of following his prescription would be a less informed law and a law that would stumble even more than it does as it seeks to do justice in the particular case and as it calls on all of us to remedy our defects and to be accountable for our lapses from governing standards of performance.

I do not, of course, mean to suggest that medical diatribes against the law are based on the premise that doctors should be exempt from appropriate standards of accountability or, indeed, on dissatisfaction with the content of existing standards as abstractions. My impression is that the procedures of the law are a more important source of inter-professional antagonism. It is true that those procedures sometimes are abused by unscrupulous lawyers and badly managed by incompetent judges. But the sources of antagonism are deeper than what I will loosely call the malpractices of my own profession and appear to involve differences in training and in working habits and insufficient understanding of those differences. That essentially psychological explanation has been offered by David Louisell, a law professor, and Harold Williams, a doctor and a
lawyer, in their work on Medical Malpractice. Referring to organized and interprofessional antagonism, the authors say:

The professional education, training, and habits of thought of lawyers and physicians profoundly differ. The modern law curriculum is essentially a continuing Socratic dialogue. Medical instruction is largely didactic and authoritative. Perhaps the reasons for this largely inhere in the nature of medical education, although one may question whether its techniques are excessively dogmatic. The controversial method is the meat of the lawyer not only because he functions in an adversary system but because he has been nurtured in controversy from his first day in law school. The physician on the other hand has been conditioned to objective scientific inquiry and to him notorious contest, with its emotional overtones, is apt to be a disruptive element in the search for facts. While the lawyer typically sees challenge in open disputation, the physician may see in it only unnecessary insult, especially when his own or a brother physician’s treatment of a patient is called into question.

Moreover, the nature of the lawyer’s everyday problem is akin to his conditioning and temperament. Of course, the trial lawyer functions in the heart-land of notorious controversy. But even the office lawyer in drafting a contract . . . knows that over his shoulder are peering the critical eyes of the lawyers for the other parties, actual or potential, to the transaction. Many physicians, on the other hand, are likely to think of their contacts with other physicians over a mutual patient as ideally constituting a cooperative effort directed toward the single objective of the patient’s health. Such physicians feel that although sometimes differences of professional opinion will unfortunately erupt into adversary disputation, usually they should be resolved harmoniously by mutual and objective inquiry and assessment. In any event, normally these differences are to be kept under cover for there is nothing quite so disconcerting to a patient as a dilemma about which of several attending physicians to believe . . .

As Louisell and Williams recognize, their observations can easily be pushed too far. Lawyers are not always at their adversaries’ throats; on the contrary, they accomplish a good deal of constructive problem-solving as adversaries. Furthermore, lawyers no less than doctors are troubled by aspects of our adversary process: our mysterious rules of evidence that exclude much that is relevant and stifle natural communication, the fallibility of human observation and memory, the conscious or unconscious distortion of partisan-witnesses, expert and amateur alike, the countervailing hyperbole of counsel, the vagaries of juries, the inadequacies of some judges, the need to decide one way or the other no matter what the doubts. These characteristics of litigation moved Learned Hand, one of our most respected judges, to say that next to illness and death he most feared to be a participant in litigation.

It is not surprising, then, that the doctor-defendant or witness in this alien, hostile and sometimes rude forum should feel antipathy for the lawyer who is cross examining him and for the system that subjects him to the ordeal of trial or cross-examination. Perhaps that antipathy will be reduced if physicians reflect on two points. First, the adversary method is the lawyer’s basic technique, which he is duty bound to employ in the interests of his client. The individual lawyer who discharges his professional obligation through the use of that method is no more to be blamed for the pain that he causes in dealing with disputes than is the doctor for the pain involved in dealing with disease. Second, the adversary method, like other kinds of strong medicine, appears to work reasonably well in resolving conflict. At least, we have not been able to devise a basic procedure more acceptable to a society, with our history and values.

At the same time, let me assure you, the procedural rules are subject to unending scrutiny and continuing reforms, some of which have indeed made inroads on the adversary system. Thus, with the cooperation of the medical profession, impartial medical testimony plans have been established with a view to curbing or neutralizing partisanship of experts in personal injury cases. Similar panels have been established for medical malpractice cases, thereby overcoming what used to be viewed as a medical conspiracy to cover up medical errors. Further development of such panels promises to promote interprofessional confidence and rapport.
as well as justice. In addition, psychiatrists, among others, have submitted useful and influential criticism of the legal criteria and procedures for dealing with issues of insanity and criminal responsibility. These examples make it plain that many physicians and lawyers have narrowed the interprofessional gulf and have engaged in fruitful collaboration.

There is another set of issues that call for such collaboration and that are, I believe, even more complex and more significant in their moral implications than malpractice and procedural problems. These issues arise from the achievements of medicine in prolonging life, from the new biology, and from the new morality that has sought to fill the vacuum left by the erosion of religious faiths. These issues include definitions of life and death in, for example, the context of abortion or organ transplants. They include questions as to the sanctity of life and the freedom of the individual in the context of euthanasia, eugenics, genetic manipulation or improvement, sterilization, and population control. There are, of course, other important public issues of a different order, such as those arising from proposals for the financing of medical care for the medically indigent and the related problems of adequate supply and delivery systems, and the protection of professional autonomy against the long and distorting reach of government. I also have in mind the housekeeping and financial issues created by new bureaucracies, whose demands for paper work proceed at a gallop while their payouts crawl.

I do not mean to suggest that law and medicine have the answers for all these prickly matters, many of which call also for insights of theologians and philosophers. But I do not know of any other professions who are closer to the light or whose large-minded collaboration promises to be more productive.

It would be natural and justifiable if many of you gave those large issues considerably lower priorities than the immediate demands of the surgical table, the laboratory or the consultation room. But others among you will no doubt see that those immediate demands cannot in the end be sealed off from what I have for convenience called public issues and that those issues in their own right merit your attention. In any case, I am confident that the necessary interprofessional cooperation, which has already begun, will continue and grow stronger.

My confidence is, let me emphasize, not occasioned by the need for a happy ending on an occasion such as this, but rather by the fact that the differences between our professions are, in my view, overshadowed by the attributes, the responsibilities, the pressures that, I like to believe, we have in common. Both professions call for intellectual and moral capacities of a high order, the resiliency to accept defeat, frustration and the deferral of satisfaction. Both of our professions are also increasingly fragmented by specialties producing a torrent of literature that threatens the whole man, in both his professional and human capacity. Both of them involve the tensions between cupidity and professionalism inherent in fee-for-service arrangements. Both of them also call for disciplined sensitivity to the grubby particulars of circumstantial evidence. And they call also for the management of doubt with respect to the most vital interests of those who depend on us. Both of them, in demanding the most exacting loyalty to those interests, reflect the basic commitment of our society to the dignity and freedom of the individual. Finally, for the proper discharge of our respective responsibilities, the admonition of my late colleague, Karl Llewellyn, is in point. Technique without ideals, he said, is a menace, but ideals without technique are a mess.

You may have caught an echo of the Hippocratic Oath in Llewellyn's comment. Let me draw from that Oath my wish and, I take it, everyone's wish for the Class of 1973, that you meet the demands of competence and integrity and enjoy "life and art"—withstanding the "brooding omnipresence" of the law.
To some of you I may have to apologize, and that in itself may be something hard of hearing in Washington. But I too got carried away by my advisers. When Frank Ellsworth asked me whether I would speak to you during my week at the American Law Institute, he reported that some of you had seen my article, "Due Process and Commercial Law," in the last issue of the Supreme Court Review and would like me to continue with that subject. I readily acceded to this request in no small part, because it is a subject which interests me and plagues me in legislative drafting. I find no fault with the request.

Then Frank, remarking that my title was quite technical, asked me to get a snappy title—one like Wally Blum created for the equally boring subject of taxation. I agreed to this and produced this title of which, I frankly confess, I am very proud. My trouble started when I tried to produce something worthy of the title. I am mindful of the rule in the Uniform Commercial Code that any description of the goods creates an express warranty that the goods shall conform to the description. I might even be hung by the rule of implied warranties: a person in the business of selling warrants that the goods are of fair average quality. For, if Mr. Blum is the standard of our Law School for fair average quality lectures, then I am in breach—I neither wear snappy neckties nor make snappy jokes.

I think I have a way out for myself with respect to most of you. At the Law School annual alumni dinner in Chicago the Dean told me he was pleased that the old timers—Kalven, Meltzer, and Dunham—were still around. So, I think I have an out also from the UCC: when the buyer before entering into the contract has examined the goods as fully as he desired or has refused to examine the goods, there is no warranty with regard to defects which an examination ought to have revealed. As I look at you, I think most of you examined my goods in first year property. Either you refused to examine one of my other courses or did examine them, and you still want to buy today. So, I do not need to warrant that my talk will conform to the title.

There is another problem, however, of which I must dispose. Some of you graduated before Women's Lib was invented and some of you may be inclined to interpret any expression by a person my age as the expression of a male chauvinist pig. When I designed the title I did not think about either group, but as I started to outline my talk I began to wonder how many of you thought my talk

*Arnold I. Shure Professor of Urban Law. This paper was presented at the annual meeting of the Washington District law alumni held in conjunction with the American Law Institute, March 17, 1973.*
was on women in the Law School, a relatively new phenomenon as far as quantity is concerned. Let us put that at rest at once. My “noticing” referred to in the title is sex-blind; I am talking about conflict and dispute in the real world.

Well, what is my topic? Its background is a series of Supreme Court cases, particularly Sniadach and Fuentes, which have led some commentators and lawyers with clients to assert that no contract can be arranged so that one party to a contract can take action on the basis of his asserted legal conclusion, until after he has notified the other party of his intention and has had the validity of his conclusion certified by a court after an adjudication. You will recall in Sniadach that under Wisconsin procedure a creditor could assert that a debtor owed him money and thereupon obtain a court order without a hearing on the merits of the claimed debt or default, directing the employer of the debtor to pay a portion of the debtor’s wages to the creditor. In Fuentes the seller of a gas stove which had not been paid for, attempted under Florida law to have the sheriff seize the stove and deliver it to the seller before a court determined that the debtor was in default or was a debtor.

In my article I suggested that if these cases stood for this extreme position, it would be a dramatic change in existing commercial law, particularly in the law of secured transactions. I asked whether these cases changed the following rules or practices:

a) a state statute which compels an employer to withhold asserted income tax from an employee’s wages before it has been determined whether any taxes are owed;

b) the UCC which authorizes a secured credit to repossess the collateral without judicial process on the creditor’s assertion of a default;

c) the UCC (in all but one jurisdiction) and real estate mortgage law (in about 25 to 30 jurisdictions) which authorize the secured creditor on his assertion of default by the debtor to sell the collateral after giving the debtor notice but before a court has certified that there is a default;

d) the landlord and tenant law, developed in the DC and now widely copied, which authorizes a tenant to withhold rent payments on the tenant’s assertion that the landlord has breached some obligation of the lease, such as the obligation of habitability, before the landlord has been heard in court to determine whether or not there was a breach.

An endless list of every day transactions could have been prepared, and I asserted that there is not a bilateral contract in existence in which one of the parties is not permitted by the contract or contract law to take action on the basis of his own asserted legal conclusion before a court has determined what the law applicable to the transaction is. Having produced the absurdity that I intended—a rule that nobody could act until a court authorized his action—I then sought to list a number of factors or principles which could be followed in distinguishing some situations from the others.

I did not list as a principle a fact of which you are all aware: the last of these decisions was a 4-3 decision with two members of the present court, Powell and Rehnquist, not sitting. I know that some people in the commercial world are relying on this fact to get them out of their difficulty.

Not I. I think we must face the issue squarely. You will note that in all the situations I presented, the action taken before adjudication does not foreclose adjudication. If the tenant withholds rent, the landlord can bring a proceeding to determine whether the withholding was privileged. If the mortgagee threatens to exercise the power of sale on the mortgagor’s default, the mortgagor can bring an action to enjoin the sale until his defenses or claims are disposed of. So, what we are really talking about is the adversary system. In the adversary system somebody has to be an aggrieved party—that is, a plaintiff—and the question is whether one of the parties to a consensual arrangement can put the onus of an aggrieved party on the other.

In my article I suggested that the most congenial explanation of the cases was the conclusion that this can always be done, if the actor remains responsible for the consequences of his acts. Thus, self-help repossession of the automobile off the street by an agent of the creditor was all right and was different from the Fuentes case, where he enlisted the aid of a government official, thereby relieving himself from responsibility for the acts of the overzealous or rough sheriff. In the former case he was responsible for the acts of the agent, but not in the latter. I suggested that if the creditor wanted the immunity which action pursuant to court order gave him, then
he had to have all the trappings of a court order, that is, notice and hearing.

Every public interest law firm or legal aid office has a case in which a 70 year old lady lost her house or car or something, because the creditor, according to the old lady, seized the object and sold it without notifying her he was going to do so. Every creditor in the same or similar situation has a case in which he sent her two or three or more notices—even called on her and warned her of the threatened seizure and sale—and yet she ignored the notice and did not become really aggrieved until she discovered that the object had been taken away from her and sold. In a sense these two versions of the same event are the result of the anonymity and impersonality of a society with immense populations. But life has to go on, and immense populations should tell us that we cannot live with a system which requires judicial determination before any action.

What can we do? Until Chief Justice Kurland restores the principal that most law is not constitutional law, it is dangerous to suggest that one way out of the difficulty is to determine whether the actor’s conduct or his asserted privilege is unconscionable or is really an overkill.

What do I mean by an overkill or apparent overkill? There are many form mortgages around which have a clause which provides that on default the mortgagee may accelerate the debt and demand the entire unpaid balance “without notice to the debtor.” I regard this type of clause as an overkill clause.

Practically speaking there is no way the debtor can be made to pay the unpaid debt without notice, just as in a demand note you cannot in reality collect until you have made the debtor aware of your demand. It can only mean that if I, the creditor, err in giving the creditor enough notice, you the debtor agree that I am not to be responsible for the acts of my agent. The error does not make much difference when foreclosure is judicial foreclosure, but it makes a great deal of difference where a power of sale is used. I suggest that the risk of failure to give notice should fall on the creditor, but not to the extent of queering the sale. Debtors are better served by having a quick, cheap, and conclusive foreclosure procedure than by threatening the sanctity of all sales because of the chance of the occasional failure to give notice in fact. A monetary claim against the creditor for the mistaken or wrongful sale is enough, with certain exceptions.

The problem is that we may make our commercial system grind to a halt, if we have too much noticing. If it is highly likely that notice will be given, then there is no hard of hearing except at the debtor’s own choosing or negligence.
Remarks on a 
First Year Fantasy to 
First Year Students

Catherine Hancock*

Good afternoon, and welcome to law school, the land of Oz. I would like to start off with a Spanish proverb which I feel is excruciatingly appropriate to Pat’s and Dick’s and my situation in speaking to you. Loosely translated, the proverb is, “Tell the truth once, and you’ll never be trusted again.” Each of us is giving you a vision of the truth at the risk of your skepticism and distrust.

I must admit that I am generally regarded as an eccentric, perhaps even as a masochist, by my friends. This is because whenever I am asked, “What did you think of first year law school?” my answer is that I enjoyed it. As you will soon discover, my vision of law school is an unusually positive one. And even though I know that I am telling you the truth, my truth, I advise you to distrust me, at least until you create your own vision.

What is my vision of law school? That Law is Art. It is music, it is painting, it is drama, it is the dance. Law is a symphony. Its substance is melody, its procedure is rhythm, its juries are chirping operatic choruses, its lawyers are the orchestra, its judges the conductors. It is impossibly rich, repetitive, and haunting in its elusiveness. You will all file into Room II on Monday for your first rehearsal, and Professor Epstein will hand out the symphonic scores. And then you will look in your pockets and briefcases and find that all you have brought is your kazoo, or your washboard for a bass, your cider jug for a french horn. And starting with these instruments, you will learn to play the law.

Law is an Andrew Wyeth painting. Each case is framed and hanging in the museum of a casebook, stark, obscurely symbolic of something greater than itself. It frustrates you and hypnotizes you, until you leave it half-digested and shuffle on to the next frame.

Law is theatre of the absurd. When you discuss the law in class, you talk all around it, and ponder the implications of its Non-Meanings. You are waiting for Godot. The presence of the Law hangs heavily abstract in the air, but you wait for the conclusion, the Rule, which never arrives.

Law is perfectly executed classic ballet. Judges dance haughtily on pointed toe in predictable chorus lines in their opinions. They bounce delicately around and away from the reasons, and twirl sparkling sidesteps past the contradictions—until a Rudolph Nureyev judge like Cardozo, or Harlan, or Friendly, comes leaping violently out into center stage to thrill the audience with his surpassing vigor of analysis.

*Ms. Hancock is a member of the Class of 1975. This presentation was made at the Orientation of the Class of 1976.
Law is alive and each subject breathes its own idiosyncratic identity. Criminal Law is a Sunday-go-to-meetin' preacher. He picks sociologists' pockets for theories of rehabilitation of deviants à la Clockwork Orange. And as he preaches, he glances nervously over either shoulder, hoping no one will notice that he is carrying a Saturday special, and settling society's blood feuds with a flick of his trigger finger.

Property is the sleepy old man of the law, covered with moss and weighed down by fossilized feudal monuments. As a sixteenth century wolf landlord in sheep's clothing tries to slink past him, the old man awakens with a Rip van Winkle yawn of surprise to find himself in the twentieth century, and puts out a cobwebbed hand of charity to give a freezing penurious tenant a remedy or two.

Civil Procedure is a weak-chested, thin fellow with thick bi-focals which give him the curse of simultaneous telescopic and microscopic vision. He is lost in the labyrinth in Crete, with only the fraying thread of the Federal Rules to guide him out of the maze. He quivers with each step at the thought that the monster minotaurs of the Federal judges may lunge out at any moment, swallow his case in one gulp, and throw him out of court.

Poor arteriosclerotic Contract lies wheezing on his deathbed, weakened by everyone's lack of consideration. His overfictionalized veins are impossibly burdened with the pulsing blood of new theories, until, miraculously, the products liability doctor arrives, and manages to make a life-saving transplant, with a heart of tort.

Law is Wonderland. I hold out my hand to you and pull you through the looking glass into a world of double mirrors where everything is distorted beyond your wildest dreams. The professors are all mad hatters, asking all you bewildered Alices, "Why is today's case like that case five weeks ago?" "Why is a raven like a writing desk?" they demand. You sit in perplexed silence. "You're absolutely right!" they exclaim. "There is no answer!"

The language of the law is pure Jabberwocky. You all remember "Twas brillig and the slithy toves did gire and gimble in the wabe." How about, "Twas infra, and the plea to wit/A breach in limine demurred/Malfeasance was the plaintiff's claim/And quantum meruit."

As you all sit here, contemplating the plunge you are about to take, you are all now lawyers, irrevocably, although you do not know it yet, although you have not seen the vision. The Merlin of the Admissions Office has cast his magic wand over you, and you are all lawyers. You are wearing invisible black robes, you walk through an incense laden Green Lounge, you carry invisible candles to the altar of the Supreme Court Reports. You are all Chaucerian pilgrims on the road to Canterbury; you are an intellectually gawdy and incompatible group. All I can do is wish you luck on your pilgrimmage, and hope that you manage to tell a few memorable stories along the way.

You may be tempted in the months ahead, to look back on our visions, on my visions of Law as Art, as Life, as Wonderland, and say, "She was so wrong, all that is just an illusion." If you say this, I can only reply in the words of Mark Twain: "Don't part with your illusions. When they are gone you may still exist, but you have ceased to live."
Harry Kalven, Jr., Harry A. Bigelow Professor of Law died on October 29, 1974. A member of the law faculty since 1945, Mr. Kalven was a leader in the contemporary movement to study law and legal institutions from an interdisciplinary perspective. For more than a decade, he directed the University’s Jury Project, a pioneering study, which resulted in two books, written in collaboration with Hans Zeisel, Delay in the Court (1959) and The American Jury (1966).

If there is such a thing as the “compleat” lawyer, the Law School was privileged to have him in Harry Kalven. His principal fields of teaching were torts and constitutional law. His interest in First Amendment issues led to his often cited article, “The Metaphysics of Obscenity” (1960), and to his book, The Negro and the First Amendment (1965).

Mr. Kalven’s whole career was interwoven with the University and its community as well as with the Law School. The idea that the Law School was an indivisible part of the University was one that he held dear and did much to support. Accordingly, a University-wide service was held in Rockefeller Memorial Chapel on December 6, 1974. Speakers included Edward H. Levi, Catherine Hancock, Owen M. Fiss, Walter J. Blum, Ramsey Clark, and Stanton Wheeler. Following is one of the tributes to Mr. Kalven.

The Fall issue of The University of Chicago Law Review will be dedicated to Mr. Kalven’s memory.
Harry Kalven, Jr.

Edward H. Levi

Harry Kalven was a young man, forty years ago, when I first came to know him. He had already entered the world of the University of Chicago, which he came to possess and which possessed him. He was then a student in the College, responding with delight and with a special thoughtfulness to the intellectual and moral excitement of the University, which was attempting in some collective way, but with strong adversary protagonists, to establish an understanding of the shared cultural heritage and to give renewed meaning to the ideas of the good society and a good life. He was fortunate then, as he was later as a student in the Law School, in the guidance of an extraordinary group of teachers, Robert Hutchins, Richard McKeon, Mortimer Adler, Malcolm Sharp, Charles Gregory, Max Rheinstein, Wilber Katz among them. Fortunate not only because of what they had to give but because of his exceptional capacity for response and for appreciation. Harry always gave a great deal to those who worked with him. A compilation of materials in jurisprudence which I co-edited in 1938, when Harry was a student in the Law School, carries the notation of the editor's gratefulness for the help received from Harry Kalven. I take pride in that most minor, not unusual, acknowledgment, because it came so early in his career. Throughout his life and indeed through a long session on the afternoon of the day before he died, I was among the many who were privileged to learn from him.

Harry joined the faculty of the University in the Law School in 1945. It always will be a joy to recall the growth in intellectual power and accomplishment of a mind so creative and so sensitive. His contribution to the understanding of the law and legal institutions is among the most significant of our time. Nothing he touched was left without added insight. There was a toughness of scrutiny and perseverance in him, but it was always marked with grace and inspiration. He was in the grand tradition of the law which he described in one of his last essays, and he was a magnificent collaborator. This was not a collaboration of dependence. Rather it reflected a philosophy about individuals, ideas, and problems. Individuals were seen for the best which was in them; ideas for the brightness which could be coaxed out of them; problems for the way they could be reshaped so new solutions could be found. And his work dramatically moved to new ground. He was a citizen of the University. He knew its better ways. He believed in rational discourse and the kindness and mutual respect essential for our kind of community.

His influence was felt in every corner. He taught in the College; he was a member of the Governing Committee of the Social Science Collegiate Division, and a member of the Council of the University. He accepted assignments during periods of difficulty, when he knew the strains and pressures upon him would be enormous. He represented faculty and

*Attorney General of the United States: Karl N. Llewellyn Distinguished Service Professor of Jurisprudence, on leave of absence.
students when they were in trouble, as he represented others in the larger society, and always with that kindness and respect which marked his every action. He took on burdens which were not his own. His biography reflects that he was the leader of the University of Chicago Jury Project, an interdisciplinary study of basic issues of modern jurisprudence. The study is the highest achievement of an approach long advocated but never before accomplished. But no complaint from his pen nor otherwise reveals that he took upon himself, in the face of unseemly personal attacks, the defense of the conduct of a prior stage of this study for which he was not responsible and before his leadership. The University of Chicago, as we know, is built upon the strength and quality of unusual men and women. Harry Kalven was a prince among us. His influence and life went beyond the University, but his worlds were interrelated. And he made of them one world. This was his character. With poetic perception, with gaiety and sympathy, he sought and created patterns of coherence. He understood the meaning of form. He found completeness.

In writing of his academic career for the University, he spoke of his daughter, three sons, and “my lovely wife.” When he was made Harry A. Bigelow Professor of Law, he wrote:

In a sense this brings things full cycle. For it was Harry Bigelow who provided importantly my first experience with the distinctive culture of the law.

On the last afternoon when I spoke with him, both of us understood we were rethinking the implications of pioneering work he had accomplished years ago with others. There was great satisfaction in this, and it was usually with others, for his generosity was great. The University of Chicago was a most important part of his life. He gave life to the University. For all his modesty, he would be the first to know and appreciate that his work and his values will be reflected in the better self of the University until the memory of man runneth not to the contrary.
Edward H. Levi, former President of the University and Dean of the Law School, has been appointed as the Karl N. Llewellyn Distinguished Service Professor of Jurisprudence. This appointment, made prior to his appointment by President Ford as Attorney General of the United States, was approved by the University’s Board of Trustees.

The Chair was established at the University’s Law School in 1973 to honor the late legal scholar and philosopher, Karl Llewellyn. Mr. Llewellyn joined the University in 1950 and was Professor of Law at the time of his death in 1962. A list of the contributors to the Llewellyn Professorship appears elsewhere in the Record.

A graduate of the Law School in 1935, Mr. Levi has been a member of the faculty since 1936 except for the five years he served in the Department of Justice during World War II. In 1950 he was appointed Dean of the Law School and held this post until he became Provost in 1962. He served as President from 1968 until his appointment as Attorney General.

He began his legal writing in the fields of bankruptcy and reorganization and of federal procedure. His later writings deal with trade regulation, law and economics, jurisprudence, and legal education. His Introduction to Legal Reasoning has become a classic analysis of the American judicial process. Other important publications include Gilbert’s Collier on Bankruptcy and Elements of the Law which evolved from his famous course which he developed with Roscoe Steffen.

At the time of the appointment, Dean Phil C. Neal said: “Mr. Levi’s appointment as the first holder of the Llewellyn Professorship of Jurisprudence fittingly recognizes Mr. Levi’s major contributions to contemporary thought about the role and limits of law and the nature of the legal process. The appointment insures the distinction which it has been hoped would attach to the new Llewellyn Chair as one of the pre-eminent Professorship of Jurisprudence in the world. Karl Llewellyn, whose notable contributions to American legal thought inspired the creation of the Chair, would surely have been gratified that the first Llewellyn Professor is Edward Levi, his former student and colleague.”

Mr. Levi was sworn in as Attorney General on February 7th. At the ceremony, he said: “We have lived in a time of change and corrosive skepticism and cynicism concerning the administration of justice. Nothing can more weaken the quality of life or more imperil the realization of...
the goals we all hold dear than our failure to make clear by word and deed that our law is now an instrument for partisan purposes and it is not an instrument to be used in ways which are careless of the higher values within all of us."

On February 5th, a reception was held in Hutchinson Commons honoring Mr. and Mrs. Levi by the faculty. Speaking for the faculty, Philip B. Kurland concluded his comments by stating: “Once before Edward took leave from the University to go to the Department of Justice. He does that again. For under the robe of the Attorney General of the United States, there remains the gown of the Karl Llewellyn Distinguished Service Professor of Law, on leave of absence. This occasion marks the opportunity for us to wish Edward and Kate, Godspeed, even as we look forward to their return. The country’s need for their services does not diminish our own. Unselfishly — for we have no alter-

**Beardsley Appointed to the Faculty**

**James E. Beardsley** has been appointed Associate Professor of Law. Mr. Beardsley received his B.A. with honors in political science from UCLA in 1959. He received his J.D. degree *cum laude* from The Harvard Law School in 1964. From 1964 until his appointment he had been with the Los Angeles law firm of Gibson, Dunn & Crutcher. From 1969 to 1973 he was in the Paris office of the firm.

While on leave of absence from his practice from 1966-1968, Mr. Beardsley taught and served as Head of the Law Department at the University of Botswana, Lesotho and Swaziland, in South Africa.

Mr. Beardsley studied at the University of Paris from 1971-1973 and received his Diplôme d’études supérieures (droit privé-droit des affaires) in March, 1973. He is presently a candidate for the Doctorat d’Etat en droit privé.

Mr. Beardsley’s special fields of interest include commercial law, corporations, and comparative law.

**White Appointed Professor**

**James B. White**, Professor of Law at the University of Colorado, has been appointed Professor of Law in the Law School effective July 1, 1975. Professor White was a visiting member of the faculty last year. He was graduated from Amherst College in 1960. After taking an M.A. in English at Harvard in 1961, he entered Harvard Law School.

He served as Treasurer and Book Review Editor of the Harvard Law Review and received the LL.B. degree in 1964. He practiced in Boston from 1965 to 1967 with the firm of Foley, Hoag & Eliot, and has been a member of the University of Colorado faculty since 1967.

He is the author of *The Legal Imagination* (Little, Brown, 1973). His fields of special interest include Criminal Law, Criminal Procedure, Family Law, and seminars based on
his book, involving exploration of the relationships between literature and legal thought.

GARETH JONES AND GIDON GOTTLEB: VISITING PROFESSORS

Gareth Jones and Gidon Gottlieb will be Visiting Professors of Law for the Winter and Spring Quarters 1976. Mr. Jones, who is Professor of Law at Cambridge University, England, has been a visiting faculty member at a number of American law schools, including Harvard, the University of California, and Indiana. His fields of interest are Contracts, Trusts, Restitution, and Legal History.

Mr. Gottlieb, who is Professor of Law at New York University Law School, will offer courses in Jurisprudence and International Law. Mr. Gottlieb received his LL.B. in 1954 from London School of Economics and an LL.B. in 1956 from Trinity College, Cambridge and a LL.M. from Trinity College in 1957. He received his J.S.D. from Harvard in 1962. Prior to joining the faculty at New York University Law School, Mr. Gottlieb was a Senior Exhibitor at Trinity College and associated with Shearman & Sterling. He is the author of The Logic of Choice (1967).

Jonathan M. Landers and John P. Heinz: Visiting Faculty

Jonathan M. Landers, Professor of Law at the University of Kansas Law School, and John P. Heinz, Professor of Law at Northwestern University Law School, will be Visiting Professors at the Law School next year. Mr. Landers received his A.B. from Colgate University and his J.D. from Harvard in 1965 where he was a member of the Harvard Law Review. Prior to joining the faculty of the University of Kansas Law School, he was associated with the firm of Rosenman, Colin, Kaye, Petschek, Freund & Emil in New York City. His fields include Civil Procedure, Commercial Law, and Creditors' Rights.

Mr. Heinz received his A.B. in 1958 from Washington University and his LL.B. from Yale in 1962. He taught Political Science at Washington University from 1958-1960 at which time he became Attorney-Advisor for the Office of the Secretary of the Air Force in Washington for three years. He has been on the Northwestern Faculty since 1965. His interests include Criminal Law, Evidence Law and Criminology, Law and Social Change, Legal Research and Writing, and Regulated Industries. He has been Director of the John Howard Association since 1970 and is current President. Mr. Heinz will offer a seminar on aspects of the legal profession.

Both Mr. Landers and Mr. Heinz will also be Visiting Scholars at the American Bar Foundation. Mr. Landers will be conducting a study of the Truth in Lending Act in order to see how it works and to recommend suggestions for improvement. Mr. Heinz will be conducting a study of the Chicago Bar Association in conjunction with Edward Laumann, Professor of Sociology at the University and Director of the Center for Social Organization Studies.

The Visiting Scholars program at the American Bar Foundation is an on-going program of the Foundation which annually has several distinguished law professors in residence who, on occasion, hold Visiting Faculty appointments at the Law School.

Bigelow Teaching Fellows

Five Harry A. Bigelow Teaching Fellows are currently in residence at the Law School for the academic year. The Fellows' primary responsibility is to design and carry out a program of instruction for the first year students in legal research and writing. Professor Richard Epstein has responsibility this year for coordinating the program and advising the Fellows. The program is intended to impart basic lawyerly skills through frequent assignments that aim to stimulate the problems of a real law practice.

The Fellows, named for Harry A. Bigelow, are

Gregory Stewart Alexander received his B.A. magna cum laude in English and philosophy in 1970 from the University of Illinois, Urbana-Champaign, and his J.D. cum laude in 1973 from the Northwestern University School of Law. He participated on the Northwestern University Law Review editorial board and served as Associate Note and Comment Editor. Following
graduation he clerked for The Honorable George Edwards, United States Court of Appeals for the Sixth Circuit. In addition to his Bigelow assignment, he is teaching the Conflicts of Law course with Max Rheinstein this quarter.

Stephen M. Goldman received his A.B. in 1968 from Duke University where he was a member of Phi Beta Kappa. He was graduated cum laude from the University of Michigan Law School in 1971. At Michigan he was a member of the Board of Editors of the University of Michigan Journal of Law Reform. From 1971-1973 he was a graduate student in politics at Oxford University (Brasenose College) and is a candidate for the Ph.D. This past year Mr. Goldman clerked for The Honorable John Paul Stevens, United States Court of Appeals for the Seventh Circuit. He is a member of the Colorado Bar.

Gretchen R. Morris received her A.B. from Stanford in 1959 and pursued graduate study at UCLA in 1961 and 1963. She was graduated from the University of Oregon Oregon she was associate editor of the Oregon Law Review and a member of the Order of the Coif, School of Law in June 1971. At This past year she clerked for The Honorable William M. McAllister, Oregon Supreme Court. Suman Naresh was graduated with honors from the University of Delhi in 1964 and also received a B.A. in Jurisprudence from Cambridge in 1974. He is a Barrister-at-Law, Inner Temple, in London. George Syrota received his law degree from Oxford University (Balliol College) in 1973. At Oxford he was the recipient of the David Markham and Jenkins law prizes. The past year, as a Fulbright scholar, he attended the University of Virginia Law School and received the LL.M. degree.

In announcing his decision, Dean Neal noted: "It has been very gratifying to me to be a part of the development of the Law School during these years and to see what I believe to be the growing strength of our student body, our faculty, and the stature of the School. I am convinced that the younger faculty added during recent years constitute the strongest collection of young teachers and scholars of any law school in the country, and that the future of the School is very bright."

Katz Appointed Associate Dean

Stanley N. Katz, Professor of Legal History at the Law School, has been named to the newly created post of Associate Dean in the Law School.

Mr. Katz will assist the Dean in the administration of academic affairs in the School and will have special responsibility for curriculum planning and for the development of the School’s educational and research programs.

In announcing the appointment, Dean Neal pointed out that the University’s Law School has a very small administrative staff in comparison with other schools of similar size. He said that the appointment of an academic dean will strengthen
the School by permitting more time to be devoted to questions of policy and long-range planning.

Mr. Katz, who has served as Chairman of the Law School’s Admissions Committee for the past two years, joined the Law School faculty in 1971 after teaching in the history department at Harvard University and the University of Wisconsin. His fields of teaching at the Law School have included constitutional law, torts, and American legal history. He is currently teaching one of the first-year sections of civil procedure.


1970 and Head of Readers; Services and Reference Librarian in 1972. In January, 1974 he was appointed as Acting Law Librarian following the retirement of Leon Liddell.

Mr. Liddell retired as Law Librarian and became emeritus on January 1, 1974 after fourteen years as Law Librarian, having come to the Law School in 1960 from the directorship of the University of Minnesota Law Library. His tenure here, with one exception, was the longest of any of the head librarians of our Law School. It has been an extraordinarily successful period in the development of the Law Library. Under Mr. Liddell’s leadership the collection has approximately doubled and the staff and services of the Library have been brought to a position rivaling the best law libraries of the country.

At the time of Mr. Liddell’s retirement, Dean Phil C. Neal noted that: “under Mr. Liddell’s leadership the Library has not only become a first-class general collection but has attained distinguished strength in a number of selected fields, including foreign law. I believe it is not too much to say that the quality of the Law Library has been transformed by Leon Liddell’s tenure as Librarian.”

Bowler Appointed Law Librarian

Richard L. Bowler has been appointed Law Librarian effective January 1, 1975. He was graduated from Hobart College cum laude in 1964 with a major in Sociology and was elected to Phi Beta Kappa. He received his J.D. degree from this Law School in 1967 and then attended the Graduate Library School at the University. While in the Law School he worked for the Legal Aid Program, the Civil and Criminal Federal Defender Programs, and private practitioners in both criminal law and civil practice.

Mr. Bowler became Documents and Assistant Circulation Librarian in the Law Library in 1960 and was promoted to Reference Librarian in

Meeker, New Administrator for the Center

Ben S. Meeker has been appointed Administrator of the Center for Studies in Criminal Justice at the Law School.

For the past 25 years Mr. Meeker has been Chief of the Federal Probation Office in the U.S. District Court in Chicago. In addition to this position, Mr. Meeker was Director of the Federal Probation Training Center from 1950 until 1970, at which time the Training Center was moved to Washington, D. C.

Mr. Meeker, a native of Mt. Pleasant, Utah, received his A.B. in 1933 from Emporia College in Kansas, where he majored in Psychology. In 1940 he was awarded an M.A. from The University of Chicago’s School of Social Service Administration, where he held the position of Fieldwork Instructor in the early 1940’s, and in recent years a lectureship. Mr. Meeker was an Assistant Professor in the Division of Social Service at Indiana from 1946 to 1950. He has served as consultant to courts and correctional agencies in Puerto Rico and West Germany. In 1960 Mr. Meeker was a Fulbright Lecturer in Japan. The annual Irving Halpern Award of the National Council on Crime and Delinquency for Excellence in Probation Practice was conferred on him in 1967.

From 1968 to 1972, Mr. Meeker was a member of the Illinois Law Enforcement Commission. He is past president of the Illinois Academy of Criminology and has served as a member of the Illinois Department of Corrections Adult Supervisory Board and of the Boards of Directors of the American Correctional Association and the National Council on Crime and Delinquency.

As Administrator of the Center for Studies in Criminal Justice, Mr. Meeker is responsible for coordinating a variety of research projects sponsored by the Center and for publications dealing with major issues in the field of criminal justice.
Memorial Service for
Judge Ulysses S. Schwartz

A public memorial service for Judge Ulysses S. Schwartz, who died December 3, 1973, was held in the Weymouth Kirkland Courtroom of the Law School on February 1, 1974.

Judge Schwartz was a Chicago lawyer and jurist for more than 60 years. Even after he had officially resigned from the Illinois Appellate Court in 1970, where he had served for 20 years, he returned to active service at the request of the Illinois Supreme Court and remained in that capacity until early 1973. Judge Schwartz served for many years on the Visiting Committee to the Law School.

Speakers at the memorial service were Edward H. Levi, President of the University; Justice Walter V. Schaefer of the Illinois Supreme Court; Judge Edwin A. Robson of the U.S. District Court in Chicago; and Judge Daniel J. McNamara of the Illinois Appellate Court.

The memorial speeches have been printed in a pamphlet which is available from the Alumni Office at the Law School.

Discrimination Conference
at the Law School


In between sessions at the Conference on Discrimination co-sponsored by the Law School and the Anti-Defamation League of B'nai B'rith.

Stanley N. Katz, Professor of Legal History at the University and coordinator of the Conference, says that legal problems of discrimination have changed since the last Conference on Discrimination in 1963: "The thrust of the new demands is not simply to prevent discrimination, but to aid formerly deprived groups to gain or regain a competitive position in society."

The opening paper, "Thinking About Race: Changes of a Decade," was presented by Owen M. Fiss, former Professor of Law. The four conference sessions examined the controversy over preferential quota systems; examined implications of new legislative and administrative machinery designed to prevent and remedy discrimination; considered demands for constitutional guarantees of equality such as the Equal Rights Amendment; and analyzed the development of the U.S. Constitution's equal protection clause.

Law School faculty members on the organizing committee were: Walter J. Blum, Stanley A. Kaplan, Philip B. Kurland, and Phil C. Neal. Conference participants from the Law School faculty were: Gerhard Casper, Richard A. Epstein, Harry Kalven, Jr., Bernard D. Meltzer, and Geoffrey R. Stone.

Chicago Bar Association Symposium

In January, 1974, the Chicago Bar Association held a Symposium on "The Law, the Bar and Public Virtue." This first major event of the Association's Centennial year was chaired by Phil C. Neal, Dean of the Law School. Kenneth W. Dam, Professor of Law at the Law School and formerly Executive Director of the Council on Economic Policy, made the initial presentation entitled "The Special Responsibility of Lawyers in the Executive Branch."

"Ethical Conflicts in Representing Clients in Washington" was presented by Abe Krash, J.D. '49, a partner in the Washington firm of Arnold & Porter. Roger C. Cramton, J.D. '55, Dean of Cornell Law School, who was formerly Chairman of the Administrative Conference of the United States and Assistant Attorney in the Office of Legal Counsel, was the commentator on Mr. Krash's paper.
Rostow Speaks at the Law Review Banquet

On May 24, 1974, Eugene Rostow, Sterling Professor of Law and Public Affairs at Yale University, spoke at the annual banquet honoring outgoing staff members of Law Review and the Hinton Moot Court Committee. Mr. Rostow was Undersecretary of State during the Johnson administration.

Mr. Rostow was Visiting Professor at the Law School in 1941.

Walter J. Blum, Professor of Law, was appointed by President Levi to serve on a committee to nominate recipients of the Rosenberger Medal, an award established in 1917 by Mr. and Mrs. Jesse L. Rosenberger to recognize any accomplishment of great benefit to humanity.

This May, the Administrative Conference of the United States appointed Mr. Blum a member of the Steering Committee of the Administrative Conference to study Tax Procedures of the Internal Revenue Service. The Administrative Conference of the United States is a permanent, independent Federal agency established by Congress to examine administrative procedures throughout the executive branch and to make recommendations for improvements to the President, the agencies, the Congress, and the Judicial Conference. Some of the tax procedures which the Steering Committee will examine are: confidentiality of taxpayer information, extraordinary collection procedures, use of civil money penalties, and availability of information to the public.

Allison Dunham, Arnold I. Shure Professor of Urban Law, is a member of the University committee for the selection of the Nora and Edward Ryerson Lecturers.

Assistant Dean Frank L. Ellsworth was appointed to serve on the Advisory Committee of the Illinois Institute for Continuing Legal Education. He will be a member of the curriculum committee.

Mr. Ellsworth has also been appointed to serve on a Special Committee on Resources for Legal Education of the Association of American Law Schools. The Committee will concern itself with the growing gap between resources available for legal education and the need for additional resources to enrich law school programs.

Last December Stanley A. Kaplan was on the faculty of the short course, "Securities Regulation," sponsored by the Southwestern Legal Foundation. Mr. Kaplan gave two lectures: "Introduction to the Securities Exchange Act of 1934" and "Broker-Dealer Regulation and Short-Swing Profits Under Section 16 of the 1934 Act."

In May, 1974, Mr. Kaplan was a moderator for the program "Lawyers and Accountants on Trial: Professional Liability," which is the first National Institute of the new Section on Litigation of the American Bar Association. He moderated the session on "Problems of Proof and Presentation of Evidence in Cases Against Lawyers and Accountants Under the Federal Securities Laws."

Last spring Stanley N. Katz, Professor of Legal History, was elected to the Council of the Institute of Early American History and Culture at Williamsburg, Virginia. The Institute, the leading scholarly organization for literary and historical scholars in the early American field, is the publisher of the William and Mary Quarterly and of a monographic series.


Mr. Katz has been appointed Professor of History at the University. He has also been appointed to the Governing Committee, New Collegiate Division of the College.

On January 27, 1974, the Law Faculty of Cambridge University voted to award the Yorke Prize to John H. Langbein for his book, Prosecuting Crime in the Renaissance: England, Germany, France. This book was published in January, 1974, by Harvard University Press in association with the American Society for Legal History, as part of their series, Studies in Legal History. The Yorke Prize is awarded annually for an essay on a legal subject.

Professor Jo Desha Lucas has been appointed by Chief Justice Burger as Reporter to the Advisory Committee on Appellate Rules for the Federal Courts. Mr. Lucas is one of the leading authors in the field of practice and procedure and has held a number of posts, including...
the chairmanship of the Illinois Committee on Appellate Rules.

In May, 1973, Bernard D. Meltzer, James Parker Hall Professor of Law, was elected a Fellow of the American Academy of Arts and Sciences at the Academy's 193rd annual meeting in Boston. The Academy now includes 87 faculty members of the University.

**Posner and the Romance Between Economics and Law**


Munford begins by observing, "The disciplines of law and economics have not seen much of each other since the days of Jeremy Bentham, the 18th-century English lawyer who was the principal advocate in his day of the utility maximization theory on which modern economic thought is based. But what was for a long time only a flirtation between schools that spoke essentially different languages has blossomed in the past decade and a half into an ardent romance. Not surprisingly, there is a booming business in translation."

Munford continues by noting appropriately: "From Chicago, the geographical and ideological center of the movement, University of Chicago Law Professor Richard A. Posner has produced a textbook that pulls together and expands many of the new critiques. At its heart, the book is a 415-page expansion of a short simile: a courtroom is like an economic marketplace."

The review appeared in *The Chronicle of Higher Education*.

**UST Cumulative Index 1950-1970 to United States Treaties and Other International Agreements**

In cumulative form for the first time, the four index volumes provide access to these treaties and agreements by TIAS number, date of treaty, country, and subject. This book was published by William S. Hein & Company, Inc. in late 1973.

**The Henry C. Simons Papers**

In December, 1973, *The University of Chicago Law School Library Publications, Bibliographies and Guides to Research, No. 9: The Henry C. Simons Papers* was pub-

lished by the Law School. This booklet is a guide to the collection of Simons' personal papers, lectures, speeches, published and unpublished manuscripts now in the custody of the Law School. The guide was compiled by Clara Ann Bowler, Research Assistant.

Mr. Simons (1899-1946) was Professor of Economics in the Law School.

Copies of *The Henry C. Simons Papers* may be obtained for the price of $10 through the Publications Assistant, The University of Chicago Law School, 1111 East 60th Street, Chicago, Illinois 60637.

**Distinguished Fellowships Awarded**

Robert Burns, J.D. '74, has been awarded one of 45 Kent Fellowships by the Danforth Foundation. Mr. Burns will use his fellowship to continue his work in the study of law and philosophy. After graduating from the Law School, he will resume studies toward his Ph.D. in Philosophy at the University.

A second year student, Larry Fenster, has been designated one of 15 Luce Scholars for next year by the Henry Luce Foundation. Luce Scholars are given financial support for a full year of study, work and travel in the countries of East Asia. Mr. Fenster will return to the Law School in 1975 after his year abroad.
'OLDER' MEMBERS IN

THE LAW SCHOOL STUDENT BODY

Many faculty and some alumni who have visited the Law School have noticed an increasing number of "older" students in residence. There are, in fact, 31 students in this year's second year class who graduated from college in 1970 or earlier.

Following are capsule biographies of some of these "older" students:

Christopher Berry (Notre Dame '68, University of Southern California M.B.A. '69) had been serving as a Marine Corps Naval Flight Officer.

Alan Blankenheimer (Wesleyan '70) had completed his qualifying examination and a substantial portion of his dissertation for the Ph.D. in the History of Ideas from Brandeis.

George Chapman (Cornell '69) had been teaching Economics and History at a private secondary school in Ohio.

James Clark (Brown '70) had been serving as a legal officer aboard a destroyer in the Navy.

Joel Cope (Reed '67) had been a lecturer in Philosophy at Chicago while working toward his Ph.D.

Sally Damon (Smith '70, Brandeis M.A. '72) had been working as a paralegal assistant for a Boston law firm.

George Curtis (Fordham '70, Virginia Ph.D. '73) had been teaching Legal History at Virginia.

Seth Eisner (Northwestern '67, Pennsylvania Ph.D. '73) had been teaching English at Pennsylvania.

Mary Gold (Marygrove College '59, Michigan M.A. '60) had worked in personnel management for the Department of Health, Education and Welfare and most recently served as Management Assistant to the Clerk of the Court, U.S. District Court for the District of Columbia, in the area of court administration and systems analysis.

John Hancock (Stanford '69) had served in the Army, worked on the Ralph Nader congressional study project and most recently served as a research assistant in the Treasury Department.

Roger Huff (Antioch '69) had served in the Coast Guard since graduation. His most recent assignment was Pollution Control Officer for Louisiana.

Martin Jacobson (Pennsylvania '69, New York University M.B.A. '73) had been on active duty with the Navy since 1969.

Henry James (Harvard '70) attended Harvard Divinity School, worked as a researcher for Common Cause, and most recently served as Assistant to the Director of the Education Commission of the States.

Alexis Kennedy (Illinois '68) had been serving as Deputy Director for Program Planning and Development in the Dayton, Ohio Model Cities Program.

Charles Kennedy (Florida State '68) had been an officer in the Air Force since 1968.

Anne Kimball (Smith '58, Vermont M.A. '60) had spent most of her time since 1960 raising four children. She has authored several medical publications with her husband, Chase P. Kimball, Associate Professor of Medicine and Psychiatry at the University.

Christopher Klein (Brown '69) had been serving in the Marine Corps since 1969.

Staughton Lynd (Harvard '51, Columbia Ph.D. '62) taught History at Spelman College and Yale and most recently worked with the Institute for Policy Studies in Washington, D.C.

Joseph Mathewson (Dartmouth '55) had worked as a reporter for the Wall Street Journal, served as a producer and political editor for WBBM-TV (Chicago) and was Press Secretary to Governor Richard Ogilvie.

James Olson (Wesleyan '69) had served in the Navy as a legal officer.

Marilyn Podemski (Oregon '68, Oregon M.A. '69) had taught English in an Oregon public secondary school.

Phillip Recht (Williams '68) served as a submarine officer in the Navy and had completed one year of his M.B.A. work here at the University.

Carol Rose (Antioch '62, Chicago M.A. '63, Cornell Ph.D. '70) had
been teaching History at Ohio State University since 1970.

Jeffrey Schamis (Rochester ’68, Chicago Ph.D. ’72) had been an instructor in Philosophy here at the University.

Joseph Schuman (Carleton ’69, Harvard M.A.T. ’70) had worked as a bank teller and the Director of the Alternative Service Program of the Greater Milwaukee Conference on Religion and Urban Affairs.

Rayman Solomon (Wesleyan ’68, Chicago M.A. ’72) had been working on his Ph.D. in American Legal History here at the University.

Steven Sutton (Yale ’69) had done community work in Alabama, served as a staff assistant for the Illinois Constitutional Convention and was an administrative assistant in the Pollution Control Division of the Illinois Attorney General’s Office.

Ricki Tiger (Vanderbilt ’67, North Carolina M.A. ’72) most recently served as a staff associate in the Public Administration Service here in Chicago while her husband, John, completed his studies in the Law School.

Steven Wallach (Harpur College ’67, Purdue Ph.D. ’73) had been serving on a clinical psychology internship at Vanderbilt University Medical Center.

Carlin Ward (Amherst ’70) had served as Chief Planner for the Addiction Planning and Coordination Agency in Newark, New Jersey and was an instructor at the Rutgers campus in Newark.

LADDER OF SUCCESS*

In our great society, as all Americans know, A man can be a hero Wherever he may go. He can reach the kingdom where wealth and power grow, If on the ladder of success, he don’t get vertigo.

I started out in grade school Sprinting up the rungs. I was a star in high school and heard my praises sung. I levelled out in college, then in law school fell so low. On the ladder of success, I got vertigo.

Now students take this warning. Pitfalls still abound. You may get high from Harry, but Wally’ll shoot you down. As you climb towards heaven, and the firms start calling low, On the ladder of success don’t get vertigo.

First you’ll feel dizzy, And your pace will slow. Next your step will falter

As you hang on by a toe. Now your grip will loosen, And you’ll yell “Look out below!” On the ladder of success, you got vertigo.

Around this golden ladder Are bodies piled high. People tried for glory. They thought that they could fly. But they were mistaken, As by now you know. On the ladder of success, they got vertigo.

*This verse, also known as “Vertigo,” was created by Paul Strandberg, J.D. ’74. The occasion for its performance, sung to a country western tune untranscribable by the author, was a dinner held by the faculty in honor of the graduating class of 1974 on May 14, 1974.

THE KARL N. LLEWELLYN CHAIR

In May, 1973, on the 80th anniversary of the birth of Karl N. Llewellyn, President Edward H. Levi announced the establishment of the Karl N. Llewellyn Chair in Jurisprudence.

Llewellyn joined The University of Chicago faculty in 1951 and was Professor Emeritus of Law at the time of his death in 1962. He earned his B.A., LL.B., and J.D. degrees from Yale University. He taught at Yale’s Law School and later became the Betts Professor of Jurisprudence at Columbia Law School. He also was a professor at Leipzig and Harvard Universities.

The architect of the Uniform Commercial Code, he was a life member of the Conference of Commissioners on Uniform State Laws. He also served as President of the Association of American Law Schools, a position presently held by his widow, Soia Mentschikoff.

Llewellyn wrote extensively on legal matters. His book, The Common Law Tradition – Deciding Appeals (1960), was awarded the Henry M. Phillips prize by the Science and Philosophy of Jurisprudence. His other works include Bramble Bush (1980), a collection of essays; Put in His Thumb (1981); a
book of verse; _Prajudizienrecht und Rechtsprechung in Amerika_ (1933); _The Cheyenne Way_ (1941), an anthropological study on which he collaborated with E. A. Hoebel; and _Jurisprudence: Realism, Theory, and Practice_ (1962), a collection of essays Llewellyn wrote during his last 30 years.

The professorship has been established through contributions from former students, professional associates, and friends of Mr. Llewellyn. Central committee members include: Nicholas deb. Katzenbach, former Professor of Law at Chicago, JD Yale; Eric R. Haessler, LL.B., Harvard; Lawrence R. Eno, LL.B., Columbia; Peter P. Lederer, J.D., The University of Chicago; and Walter D. Malcolm, LL.B., Harvard. Secretary of the Committee is Assistant Dean Frank L. Ellsworth.

At the time of the announcement of the Llewellyn Chair, Dean Phil C. Neal expressed the hope that the Chair will come to be recognized "as a pre-eminent post in the field of Jurisprudence at an American law school." Dean Neal continued: "This important project establishes a fitting memorial to the life and works of one of the great law teachers and scholars. Although Karl Llewellyn’s contributions transcended any single institution, his influence upon The University of Chicago Law School and the existence here of his collected papers make it especially appropriate that such a memorial be established in Chicago."

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