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Philip Kurland on the Supreme Court
Judge Barrington Parker on the Hinckley Trial
The Hinckley Trial: Another Point of View

Barrington D. Parker

When Dean Gerhard Casper called last June and asked about the possibility of an article on the Hinckley trial for the Law School Record, I was placed in something of a quandary. The media interest in the trial and the controversy triggered by the jury verdict had far exceeded any that I had experienced in nearly 13 years on the bench. Since the trial, I have been asked to participate in press and TV interviews, solicited for comments from various sources, and invited to testify before a subcommittee of the Senate Judiciary Committee. While I have generally rejected such requests, I considered Dean Casper’s inquiry significantly different, and I accepted his invitation.

Nevertheless, I approach the matter with some uneasiness and with an appreciation of the constraints which must necessarily be observed. Obviously, it is inappropriate for any judge to comment in a substantive fashion on a pending case. Because of the “not guilty by reason of insanity” jury verdict, I continue to have an ongoing responsibility as to Hinckley’s ultimate release from the St. Elizabeths Hospital, where he was committed following the trial. For these reasons I am compelled to write under self-imposed limitations and at the risk of disappointing any readers who may anticipate some heretofore undisclosed and unreported event about the 56-day trial. My comments will be confined to relatively noncontroversial aspects and developments of the trial. As I reflect upon them, they were of interest to me as a trial judge and, I hope, will be of interest to others.

Like most other Americans, including all of the veniremen summoned for jury selection, I saw the national television coverage of the March 30, 1981, presidential assassination attempt, in which John W. Hinckley, Jr., armed with a handgun, fired six “devastator”-exploding bullets, which wounded President Reagan and three other persons. Several days later, on April 2, Judge William B. Bryant, then chief judge of our court, committed Hinckley to the Federal Correctional Institution in Butner, North Carolina, for a series of medical, psychological, and psychiatric examinations under the provisions of 18 U.S.C. § 4244, the local D.C. Code Title 24 § 301, and the inherent power of the court. The Butner officials were required to make a determination of Hinckley’s competency to stand trial and a determination of his mental condition and legal responsibility for the March 30 events. A report on the examinations was completed and submitted to Judge Bryant in late July. Hinckley was then returned to the District of Columbia, and thereafter he was indicted and arraigned.

My first direct contact with the case came on the morning of August
24, 1981, when, after the indictment was returned by the grand jury, Senior Judge George L. Hart, Jr., drew my name in a random selection from the regularly maintained card deck of criminal assignments. At the time of the drawing I was presiding over a bench trial in which a plaintiff was claiming age discrimination by certain Department of Agriculture officials who had refused to hire him. As I wondered whether the witnesses' testimony would be supported by other credible testimony, Betty Flynn, my courtroom clerk, responded to a telephone call. Seconds later she turned and handed up a note:

"You have been assigned the Hinckley case."

Except for the few participants in the trial, the courtroom was free of spectators. But within minutes and to the surprise of everyone present, the hitherto uneventful trial had attracted the chief clerk and the United States marshal of the court, a news reporter, and several spectators.

Hinckley was arraigned on August 28, 1981. The 13-count indictment charged him with attempt to assassinate the President; assault on a federal officer—a Secret Service agent; assault with intent to kill the President, his press secretary, a Secret Service agent, and a local police officer; and other federal and local D.C. offenses. His counsel agreed that he was competent to participate in the arraignment and to stand trial. Within a month they filed their intention to rely on an insanity defense, in compliance with the criminal procedure rules.

The trial, however, was not to commence for another eight months. Indeed, while the final outcome of the trial caused considerable criticism of the insanity defense and of our legal system, a lower-keyed, but perhaps equally significant, controversy was generated by the seemingly endless period of time that elapsed before the defendant was finally brought to trial. The delay was not without justification. Both the government and the defense sought independent psychiatric, psychological, and medical evaluations beyond the court-ordered examinations. The regular and reciprocal discovery requests and various other pretrial matters took time to resolve. Hinckley's counsel also filed constitutional challenges to the court-ordered Butner examinations and several suppression motions as well. The constitutional challenges were of little, if any, merit.

The suppression motions warranted attention. One motion involved statements made by Hinckley on the night of the shooting, while in custody of the FBI, after he had requested counsel but before one was provided. A second sought suppression of a diary and personal notes kept by their client while he was a pretrial detainee at Butner. The defense concerns with suppression were not with Hinckley's statements, diary, and personal notes, per se, but rather their intended use by the prosecution to show the defendant's presence, bearing, demeanor, and ability to react and respond in a normal everyday fashion. After a three-day evidentiary hearing I concluded that there was no question that the defendant's rights were violated, and I granted the motions, United States v.

On April 27, 1982, nearly 13 months after the presidential assassination attempt, Hinckley was finally brought to trial. A panel of
90 veniremen was utilized. The jury selection consumed four days. During the morning and early afternoon of the first day the entire panel was interrogated as a group. The questions were routine and typical—designed to ascertain whether any of the panel knew or had prior contact with the attorneys, the several victims or their families, or any of the announced witnesses, and whether generally there were any basic disqualifying factors.

By far, the greater portion of the four days was devoted to a private examination of each venireman. The individual examinations were conducted in a conference room, and only government and defense counsel, the court reporter, a court clerk, and a law clerk were present. The defendant's presence had been expressly waived. The prospective jurors were questioned as to the source and extent of their knowledge about the case and the effect of such knowledge on their attitude toward the parties and the trial. A range of questions probed their views on the insanity defense, their attitude toward testimony of psychiatrists and other medical experts, and whether they had had any experiences which were relevant or similar to experiences associated with the facts and testimony anticipated during the trial. They were also asked whether they had formed or had expressed opinions about the insanity defense or other aspects of the case which were so fixed that they could not be set aside. Finally, each potential juror was asked whether he or she could be fair and impartial, so as to render a verdict based solely on the testimony, the evidence presented, and the court's instructions of law.

The individual examinations were painstaking and consumed nearly 37 hours. Thirty-eight jurors were struck for cause after this rigid screening. On balance, the responses of the panel members presented no unusual or serious problems. There were, however, several troubling situations arising from the fact that some veniremen had immediate or close relatives or friends who at one time had been hospitalized or had received treatment for mental problems or disorders.

The media described the 12 panel-selected jurors as a group of "middle-class citizens." With one exception, all were black. Six were single, five were married, and one was a widower. Seven were women. All except one were high school graduates; four had attended college for at least one year and two were college graduates. One graduate was a premed major, and the second had earned a graduate degree (M.A.) in special education. Four were employed by the government and eight were in private industry. One worked as a medical secretary; one, as a research assistant; several held or had held clerical-secretarial or entry level administrative positions; four were employed in blue-collar positions; and two were retired. Their ages ranged from 22 to 64 years, with a median of 35 years.

The question of jury sequestration arose several times during the pretrial preparation. I had mixed reactions to the idea, and in fact my experience with sequestration was that it generally presented a potential for vexing and unnecessary problems. I finally decided that sequestration was not required but kept all information on the jurors' identity sealed from the public. At the end of each day they were admonished to refrain from discussing the case with anyone and to avoid reading or reviewing any accounts of the trial. They were also kept in the custody of the U.S. marshals during the daily course of the trial.

All went well until the last weeks of the trial, when certain of the covering press corps apparently became fearful that the jurors might remain anonymous and they would be deprived of interviews. One night, a daring news network reporter followed a juror to her home and began asking questions. When the juror refused an answer, the reporter then approached her neighbors, seeking further information. On yet another occasion several jurors, who were car-pooling, were followed to their homes. And finally one juror was telephoned at home by a person identifying herself as a network reporter. Each incident required a private examination of the juror to determine what, if any, effect it had on their frame of mind and ability to continue serving. Several jurors were unsettled and disturbed by these intrusions. When I suspended the credentials of the networks' offending reporters for one day, the matter was speedily resolved, and the intrusions ceased.

Roger Adelman, the chief prosecutor, and his assistants, Robert Chapman and Marc Tucker, presented in two days the proof of the criminal offenses alleged in the indictment. The replay of the March 30 videotapes, the testimony of several eyewitnesses, various items of physical evidence, medical witnesses and diagrams, and factual stipulations were more than sufficient to establish the essential elements of the several crimes. Hinckley's attorneys never challenged and indeed sought a ruling to restrict many of the details and effects of this testimony and evidence. They also made various stipulation offers of the March 30 events, all of which the prosecution rejected because they did not adequately provide that Hinckley "intended" to commit the crimes. Intent was an essential element of the crimes charged in the indictment.

Hinckley's counsel then embarked upon a lengthy and exhaustive defense, designed to show that their client was suffering from a severe mental disorder and not responsible for his acts. The witnesses included Hinckley's parents, his siblings, a treating psychiatrist, treating physicians, three other psychiatrists, a psychologist, a neuroradiologist, and a neuropsychiatrist. The testimony of the experts alone extended over 11 days of direct and cross examination.

The defendant did not take the stand. Nonetheless, the jury had the benefit of his college term papers, poetry, and letters. Thus, the inner workings of his mind and thoughts were revealed through the analyses and evaluations expressed by the psychiatrists. They also referred to the movie Taxi Driver, which they claimed reflected the defendant's efforts to seek the attention of the actress Jodie Foster. All of this served as a foundation for the opinions of the defense psychiatrists, who testified that Hinckley had a severe and
complex mental illness, was schizophrastic, and was beset with delusions and obsessions resulting in the March 30 shootings.

The defense psychiatric team was headed by Drs. Michael Bear and William Carpenter. The two experts possessed impressive credentials, each having authored numerous publications. Neither, however, had a reputation or experience as a forensic psychiatrist or had ever testified as an expert in any litigation. The prosecution seized upon this as a disadvantage and attempted to discredit their methods in arriving at an evaluation of the defendant’s condition. Nonetheless, each proved to be a formidable witness.

The government presented testimony of several lay witnesses who had been in contact with Hinckley within weeks of or on the afternoon of the shooting and immediately following his arrest. They also offered proof of the defendant’s purchase of and experience with handguns and explosive-type bullets; his having engaged in target practice; his possession of and familiarity with assassination literature; and his stalking of Presidents Carter and Reagan. While the government listed four psychiatric expert witnesses, they relied solely on the testimony of Dr. Parke Dietz, a forensic expert at Harvard University, and Dr. Sally Johnson, a staff psychiatrist at Butner. Dr. Johnson had interviewed and evaluated Hinckley during the period of his Butner confinement. These doctors testified that the defendant only had simple, run-of-the-mill mental disorders and should be held criminally responsible; that there was no relationship between his mental disorders and his criminal conduct of March 30.

An applicable evidentiary standard on the insanity issue was noted by our Court of Appeals in United States v. Brawner, 471 F.2d 969, 994 (D.C.Cir. 1972): “the Government and defense may present . . . ‘all possibly relevant evidence’ bearing on cognition, volition and capacity.” The prosecution and the team of defense lawyers—Vincent Fuller, Gregory Craig—were apparently mindful of that ruling and spared no effort to present detailed testimony about every relevant aspect of Hinckley’s personal life.

The eight-week trial presented a continuing round of evidentiary problems and issues which required immediate attention. The readily identifiable problems had been disposed of in pretrial rulings, but other problems were not easily anticipated. And it was an unusual day if I was not confronted with at least one legal memorandum proposing or opposing some issue or challenging an item of evidence or a particular trial strategy and tactic. My law clerks, Christopher Aiden, Thurgood Marshall, Jr., and Thomas Riesenberg, were continuously engaged in identifying and researching relevant authority on a variety of substantive and evidentiary issues.

The jury deliberated for four days and returned a “not guilty by reason of insanity” verdict on all counts of the indictment. The verdict, unpopular though it was to many, should nonetheless reaffirm one’s faith in the independence and integrity of our jury system.

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The outcry over the Hinckley verdict was considerable, perhaps rivaling the clamor that followed a similar verdict in the notorious murder trial of Daniel M’Naghten in nineteenth-century England. With that unpopular verdict, demands were made for changes in the law of insanity, and the House of Lords responded with the M’Naghten Rule. Nearly 150 years later history was repeated. In the days following the verdict, my chambers were flooded with telephone calls and letters (hate mail included) critical of both the verdict and the insanity defense. The jury, of course, should not be faulted for its action; rather, the focus should be directed at the law governing the insanity defense.

Within four days of the trial, Senator Arlen Specter of Pennsylvania
quickly convened a hearing before a Senate judiciary subcommittee to examine the defense because of the public concern engendered by the acquittal of Hinckley. An unprecedented occurrence at the hearing was the appearance and questioning of five members of the Hinckley jury panel about their deliberations and the controversial verdict. While their attendance was characterized as voluntary, questions have been raised as to the views they have been asked about the matter. Since then, a host of proposed legislative reforms and changes in the insanity law have been advanced.

There is little doubt that some changes are warranted. But an overly hasty legislative response would be unfortunate. Moreover, our lawmakers' response should be divorced from charged emotions and the demand of an angry public.

Any effort to abolish the insanity defense or to emasculate it would go too far and should be flatly rejected. Indeed, it is unlikely that any such efforts could successfully overcome the strongly imbedded moral basis for the defense. There are clear and certain situations where exculpation is mandated. Our society and jurisprudence recognize that a person who is unable to control his action and behavior because of a mental condition should not be treated as an ordinary criminal. Only those persons with the required ability and capacity to select behavioral alternatives should be found guilty of making an incorrect choice.

Aside from all of this, however, it should be noted that the insanity defense is seldom invoked, and in those few instances when it has been, it has enjoyed only limited success. Generally, jurors do not accept such a defense; acquittals are rare. Because of this, many of the frequently and presently expressed fears might very well be misplaced.

At present there is no federal law that deals in a broad sense with the substantive aspects of the insanity defense. Nor is it entirely clear what measures should be adopted. One idea, adopted by a small but growing number of state legislatures, is to arm the jury with the choice of the verdict "guilty but mentally incompetent." This proposal embraces the idea that a person who commits a criminal act should neither go free nor be treated as an ordinary criminal. This approach would, of course, take away from the jury a significant part of the role in which it has always participated.

The procedure has been viewed as an easy way to finesse the hard decisions that a jury is required to make when an insanity defense is invoked. It is perhaps too early to form an opinion based on the several states' experience with this approach. Under the proposal, the committed defendant would be sent at first to a mental hospital for treatment and upon recovery would then be incarcerated for a specified term. One problem voiced is that the proposal might harbor disincentives to recovery from a mental illness by the defendant. There would also be the problem of whether a committed defendant were receiving appropriate treatment and care.

Another possible reform advanced is that psychiatric experts be limited as to the range and substance of their testimony and that the adversative nature of their testimony be curtailed or even eliminated. There may be some merit to this approach. The psychiatrist would be restricted to testimony about the defendant's actual symptoms and conditions found during an examination and would not be allowed to voice in any manner an opinion on the ultimate legal issue. This could perhaps limit the wide range of conflicting testimony which frequently seems to intimidate, confuse, and at times even irritate lay jurors.

A further proposed change is to remove and shift the entire burden of the insanity issue from the prosecution to the defense. This, of course, presents serious problems, since it marks a radical departure from the procedural and substantive law in federal courts. The possible complexity of the problem cannot be fully anticipated. From a practical point of view it also presents a problem, in that those who are economically and otherwise disadvantaged might be unable to mount an adequate defense even if there were a solid base for such. If the Congress is successful in passing this type of legislation, it is certain that a final judgment will only be determined by the Supreme Court.

Under the present state of law in the District of Columbia, a defendant who is found not guilty by reason of insanity is committed to the St. Elizabeths Hospital in Washington, D.C., for a psychiatric evaluation. Within 50 days, the hospital staff is required to submit a report containing findings and conclusion as to whether the defendant is mentally ill, and, if so, whether he is a danger to himself or to society. The court is required to hold a hearing, unless waived by the defendant, to determine whether he should be committed until he recovers his sanity.

The St. Elizabeths Hospital report was submitted on August 2, 1982, and the defendant Hinckley appeared in open court a week later. The report recited that he suffered from a severe, chronic mental disorder, which was summarized in a two-page report and more fully detailed in an 18-page report. The reports concluded that he was presently dangerous to himself and to others and was likely to remain so in the reasonable future.

The defendant waived his right to a hearing and stipulated as to the medical reports and to the expected testimony of the medical experts and the staff personnel from the hospital. He was questioned fully about the waiver and stipulation he had signed. He was then committed to an indefinite term. Under the local statute he is, of course, entitled to reapply for release.
Curia Regis: Some Comments on the Divine Right of Kings and Courts “to Say What the Law Is”

Philip B. Kurland

Sir William Holdsworth, in his monumental History of English Law, tells us:

As Mr. Turner remarks, “from the time of the Conqueror there must always have been a curia coram rege of some sort. We cannot imagine a time when cases were not reserved to the king and judicial advisers at his side, cases which concerned the king himself and his peace; nor can we imagine a time when other cases were not referred to him for special consideration. Such reservation and reference were part of the burden of kingship. ... In ordinary matters, whether civil or criminal, ample justice could have been done by the local courts.”

Sir William, later in his book, added:

It is quite clear that the jurisdiction exercised by the undifferentiated Curia Regis of the twelfth century was marked by two of the chief characteristics which we associate with a court of equity. Proceedings were begun by petition to the king for his interference; and that interference might result in remedies which, by reason both of their character and their method of enforcement, were, as Professor Adams has said, “outside of, and in violation of, the ordinary system of justice which prevailed throughout the Anglo-Norman state. ...”

This description of the procedure and powers of the Curia Regis surely has a familiar ring to those concerned with the Supreme Court of the United States and how it goes about its business. But it should be

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remembered that the Curia's business, as Holdsworth said, was "undifferentiated." The royal court was not confined to judicial business. There was, then, no distinction between the exercise of executive, legislative, and judicial powers. Not even the imagination of a Montesquieu could extract a principle of separation of powers from the operation of the king's government of that time. "L'Etat, c'est moi," as Louis XIV put it. The Curia Regis was the Crown, and it operated without the constraints of constitution, of legislation, or of judicial precedents. Its judgments were ad hoc and based primarily on notions of what the royal court thought to be best for the interests of the king, including the preservation of the King's Peace.

In theory, our government, unlike that of our English forebears, derives not from the divine right of kings, which found in God's will the source of its lawmaking function, but from the mandate of the people, expressed primarily in written constitutions. It was intended to be what John Adams, in the Massachusetts Declaration of Rights, called "a government of laws and not of men." And, however ready we may be to recognize the weakness of the Adams conception because we know that laws are but the tools of men, we generally accede to the proposition that we are all to be governed by the same preestablished rules and not by the whim of those charged with executing those rules. In his phrase, Adams epitomized what has come to be known in the Anglo-American world as "the rule of law." The difference between rule by law and rule by fiat or discretion is largely what distinguishes the democracies of the West from the governments of most of the rest of the world.

The American Constitution purports to provide for the distribution of government power as well as its containment. And, whether originally intended or not, the Supreme Court from the beginning assumed the role, not of keeper of the King's conscience, but of keeper of the rule of law as embodied in the Constitution. It has been suggested that this function of the Supreme Court—the function of judicial review—derives from necessity rather than plan: the necessity to confine the other two branches of the government to their respective spheres, the necessity to make the Constitution meaningful and not a mere "piece of paper." But it should also be remembered, as John Marshall told us in Marbury, that "courts, as well as other departments, are bound by that instrument."

That we must all be grateful to the Court for performing its duty as guardian of the Constitution from the origins of our nation down to the present, none should gainsay. I venture that no governmental body in history has maintained so unblemished an escutcheon, free of venality, and personal vindictiveness, as the Supreme Court of the United States. This, of course, is not to say that the Court has been free of self-aggrandizement or of partisanship, but its partisanship has been for causes and not for persons. Neither can it be denied, however, that the love of power is no less formidable than the love of money. And, if we must applaud the Court, we need not abstain from critical examination of its behavior. Professional criticism affords the only form of judicial accountability.

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English constitutional conventions are, as G. H. L. LeMay says in The Victorian Constitution ("like the procreation of eels"), vague, slippery and mysterious. Precisely how they are generated is somewhat unclear; how they are recognized excites differences of opinion and how they change and disappear is a matter of dispute." American constitutional conventions are equally vague, slippery, and mysterious. But there are no longer questions as to how they are generated, how they are recognized, how they change, or how they disappear. The Supreme Court of the United States generates them, recognizes them, changes them, and abolishes them. We have been told by no less an authority than Charles Evans Hughes that the Constitution is whatever the Justices of the Supreme Court say it is. Nevertheless, there is now a heated debate among academic lawyers over whether constitutional adjudication must depend upon the meaning to be given the text of the document in the context of history, structure, and prior judicial construction, or whether there are other sources from which our constitutional law may as well be derived.

In his preeminent textbook on constitutional law, which is disguised as a casebook, Professor Gerald Gunther has put the issues this way:

"To what extent must the Court confine itself to the text and history of the relevant constitutional provision? To what extent may it rely on inferences from the structures and relationships established by the basic document? ... To what extent is the Court authorized to implement values derived from sources outside the written document—e.g., the society's political and moral values, or the Justices' personal ones?"

Gunther continues:

"Typically, that debate is now couched as a battle between "interpretivism" and "noninterpretivism"—between the view that judges can only enforce norms stated or clearly implicit in the Constitution and the position that courts can legitimately go beyond those sources. Examples of "noninterpretivist" positions include the claim that the Supreme Court has the obligation to articulate the changing content of the nation's fundamental values and that it is charged with evolving and applying the society's fundamental principles."

(You will pardon me, I trust, if I frequently prefer to use the word "construction" where my colleagues refer to "interpretivism" and the word "deconstruction" where they speak of "noninterpretivism." My tongue ties too readily over the more pedantic expressions.)

The debate, I should say, is not over what the Supreme Court does in its constitutional adjudication but over what it should do. The question is not whether the Court engages in deconstruction—everyone seems to recognize that it does, at least from time to time—but rather whether it ought to do so.

If we look to John Marshall's classic justification for judicial review as expressed in Marbury v. Madison, or Hamilton's 78th Federalist, there should be no doubt about the validity of the "interpretivist" position. But to resort to so basic a judicial precedent, or so authoritative a contemporary text on the original meaning of the Constitution, is itself an act of deconstruction. Nevertheless, I am in the position of Thomas Reed Powell's Vermont farmer who, when asked whether he believed in Baptism, replied, "Believe in it hell; I've seen it done."

Of course, to say that I believe that the Constitution must be the source for constitutional adjudication is not to suggest that the duties of the Court are mechanical or that an examination of its origins, its words, and its structure will afford unequivocal answers to every problem that comes to the Court for resolution. Mr. Justice Frankfurter's admonition about statutory construction is equally appropriate to constitutional construction: "The notion that because the words ... are plain, its meaning is also plain, is merely pernicious oversimplification. It is a wooden English doctrine of rather recent vintage ... to which lip service has on occasion been given here, but which since the days of John Marshall, the Court has rejected, especially in practice." The language, history, and clausal relationships give adequate play for judgment on the part of the Justices. Constitutional opinions, as Mr. Justice Brandeis so often told us, are not chiseled in stone. But neither is the Constitution a ball of clay to be molded to the desires of the judges. The Constitution and its history im-


"Id.

pose boundaries—what the current jargon terms "parameters"—not only on the legislative and executive branches but on the judicial branch as well. But it is not my purpose here to explicate my own views on the proper mode of constitutional adjudication.

I would point out, however, that while the fervor of the present debate suggests that the jurisprudential question of interpretivism versus noninterpretivism is comparatively new, it is in fact a contest that has been waged from the beginning of the Court's history and before; only the labels have changed from time to time. What we have in the recent literature is old whine in new bottles. The central question is even more trenchant than the anecdote about the Vermont farmer and may be recognized by some of you under the old rubrics of "higher law," "natural law," "substantive due process," "realism," and "preferred positions," to mention just a few.

Thus in 1978, in the classic case of Calder v. Bull, Justices Chase and Iredell—in dicta to be sure—argued about whether there was a "natural law" superior to the Constitution. And Mr. Justice William Johnson, in Fletcher v. Peck (1810)/(1813), and Mills v. Durkee, adumbrated the supremacy of natural law.

When Professor Gunther, almost five hundred pages after his notes on noninterpretivism from which I have already quoted, comes to deal with the problem of "substantive due process," he makes it very clear that the issues are the same:

These substantive due process cases, old and new, raise common issues: Are these decisions from Lochner v. New York (1905) to Griswold v. Connecticut (1965) and Roe v. Wade (1973), justifiable as interpretations of the Constitution? Are the fundamental values identified in such cases plausible extrapolations from constitutional text, history, or structure? Or are they ultimately extraneous, noninterpretive judicial infusions? . . . Are there basic values—moral, social, or economic—that truly reflect a national consensus? Even if there are such values, does the existence of a consensus justify reading them into the Constitution? Do the Court's fundamental value adjudications in fact rest on an adequately widespread consensus? . . . Or do they ultimately reflect nothing more than the beliefs of a majority of the Justices at a particular time? Are fundamental value adjudications unacceptable if the Court cannot demonstrate an adequate link to constitutional text, history, or structure? Is it possible to state a principled, disciplined "fundamental values" approach that safeguards adequately against merely subjective judicial lawmaking? 

For me, these questions are rhetorical. But these are the questions addressed in the fast-growing legal literature on the subject. It will be recalled that it was in Lochner that Mr. Justice Holmes remarked in dissent, "The 14th Amendment does not enact Mr. Herbert Spencer's Social Statics." Of today's decisions, it might be said that the fourteenth amendment does not enact Professor John Rawls's Theory of Justice. Both statements are equally right or equally wrong, and I think that Holmes was probably right. Spencer encapsulated the judicial zeitgeist of the early twentieth century as Rawls has encapsulated that of the latter part of this century: for Spencerians, liberty, even at cost of gross inequality; for Rawlsians, or at least for his epigone, equality, even at the cost of almost any liberty.

There is, however, no showing that the judiciary's notion of fundamental values originating outside the Constitution bears any resemblance to the values preferred by the majority of the people. In any event, the expression of society's notion of fundamental values would more readily be reflected in the behavior of the legislative and executive branches—the democratic branches of government—and thus make the invocation of such a judicial power redundant. Indeed, it has been proposed that the Supreme Court's primary function is to protect individuals and minorities from legislatively imposed values of the society at large.

Somehow, and perhaps because I received my legal education when legal realism was at its apex, the language of legal realism seems more compelling to me than that of our contemporary jurisprudences. The realists told me that each of the three branches of government exerts political power and that the realists chose to support the branch that came to the conclusions most satisfying to themselves. For them, personal predilections guided both the Justices and their critics.

I suspect that the words "interpretivism" and "noninterpretivism" are used in the current literature because "substantive due process" and "natural law" have been so thoroughly discredited. If the phoenix is to rise again it must be in the disguise of a new bird; perhaps a turkey would do.

Two questions within the current debate are far more interesting to me than whether the Court does or should indulge in constitutional deconstruction. The first, which I propose to examine, is if the Court engages in noninterpretivism, as it surely does, why does it not do so candidly and openly? The second, which I propose to bypass, is if not from constitutional text, its history, its structure, or prior judicial pronouncements, where are the appropriate principles for guidance to be found? On the second question, suffice it here to quote from Lord Pollock in a letter to Holmes: "In the Middle Ages natural law was regarded as the senior branch of divine law and therefore had to be treated as infallible (but there was no infallible way of knowing what it was)."

The demand on the Court for frank recognition of its deconstructive methods is not new. For example, Professor Felix Frankfurter, as he then was, wrote in 1923:

Granted that the power of judicial review in this wisest field of social policy is to be retained, its true nature should be frankly recognized. Since the nine Justices are molders of policy instead of impersonal vehicles of revealed truth, the security of the power  

1 HOLMESPOLLOCK LETTERS 275 (M. Howe ed. 1941).
which they exercise demands that, in this realm of law, the most sensitive field of social policy and legal control, the judicial process should become a conscious process. The Justices will then recognize that the "Constitution" which they "interpret" is to a large measure the interpretation of their own experience, their "judgment about practical matters," their ideal picture of the social order.

Judge Learned Hand put the same point more pithily, as was almost always the case, when he said, "If we do need a third chamber it should appear for what it is, and not as the interpreter of inscrutable principles." Note that both these eminent jurists not only suggested the desirability of candor but recognized that the bases for judgment were personal evaluations by the Justices of what they thought to be the best solutions to the social, economic, and political issues that came before them. Note, too, that these are the words of the two most eminent judicial representatives of the school of judicial restraint.

Both of the quoted remarks, however, were extrajudicial utterances. Neither in their own judicial opinions nor in those of the Supreme Court generally have I found any equally candid expression of the view that it is not the Constitution, its history, its structure, or prior judicial construction, but a personal evaluation in the light of their own experience that should lead Justices to their constitutional judgments. This failure may be mine, attributable either to my ignorance of what in fact exists or to my unwillingness to see what has been plainly written. But I think it cannot be denied that the Court has rarely been candid about its deconstructionist behavior.

It is true, nevertheless, that the Court frequently signals its deconstruction without openly avowing it. Thus, whenever an opinion quotes Marshall's dictum in 

- M'Culloch v. Maryland—"[w]e must never forget that it is a constitution we are expounding"—you can be sure that the Court will be throwing the constitutional text, its history, and its structure to the winds in reaching its conclusion. Witness, for example, Home Bdgl. & Loan Ass'n v. Blaisdell, which buried the contract clause until only a term or two ago, or Mr. Justice Blackmun's opinion in Bakke v. Board of Regents, which would suspend the Constitution until things got better.

Another signal of deconstruction is the citation of the renowned Holmes dictum in Missouri v. Holland: "[w]hen we are dealing with words that also are a constituent act, like the Constitution of the United States, we must realize that they have called into life a being the development of which could not have been foreseen completely by the most gifted of its begetters. . . . The case before us must be considered in the light of our whole experience and not merely in that of what was said a hundred years ago." Once more this means that the Constitution is out the window. History has not changed the principles of the Constitution, although it has changed the subjects to which the constitutional principles are ap


10252 U.S. 433 (1920).
once said, "Due process is not a mechanical instrument. It is not a yardstick. It is a process. It is a delicate process of adjustment inescapably involving the exercise of judgment by those whom the Constitution entrusted with the unfolding of the process." Judges, "whose preoccupation is with [constitutional clauses like these] should be compounded of the faculties that are demanded of the historian and the philosopher and the prophet . . . [with] poetic sensibilities . . ." (Perhaps Frankfurter thought this was a self-portrait; surely he did not believe that any of his brethren met the standard he bespoke. And, aside from thee and me, what lawyer does?) It has always come as a surprise to my students that it was Frankfurter who was the deconstructionist and Black the interprivist, although both claimed to eschew personal values as a guide to judgment.

The question remains, if the Court indulges in deconstruction, as everyone seems to agree that it does, why will it not reveal the manner by which it reaches its conclusions rather than concealing it by purporting to find its answers in the Constitution? There are many hypotheses offered to explain this phenomenon, but there is little other than speculation to support any of them.

One explanation is to be found in an anecdote related by Ronald Steel in his new and excellent book Walter Lippmann and the American Century. Speaking of Walter Lippmann's new bride, who had come to Washington with him to reside in the House of Truth, which was stocked with the bright young men — mostly from Harvard — who came to Washington in World War I to help preserve the world for democracy, Steel writes: "One of her greatest admirers was Justice Holmes, who used to come from the Court chambers in the late afternoon to play double solitaire with her. Once during a game she gently pointed out to him that he was cheating. 'But it's such a small thing, my dear,' he sighed through his great drooping mustache, 'and no one will suffer from it but me.'"

The argument may well be that the Court believes that its exercise of deconstruction is "a small thing," from which none will suffer but those who indulge in it. As Frankfurter once wrote for the Court, in a different context, "Fictions have played an important and sometimes fruitful part in the development of the law; and the Equal Protection Clause is not a command of candor." Nor, it may be added, does any other part of the Constitution contain such a command except by deconstruction. This approach, however, was inconsistent with Frankfurter's more frequent admonitions that democracy requires that the governors keep the governed accurately informed of their behavior so that people might exercise their ultimate authority over their government. Much governmental authority, however, is based on fictions, and that of the Supreme Court would seem to be no exception. It is a pretense that presidential nominees are chosen by the people and elected by the Electoral College. It is a pretense that the President is in control of the executive branch, including the bureaucracy. It is a pretense that legislation represents the will of the majority of the electorate, or even the will of the majority of senators and congressmen. It is a pretense that independent agencies are responsible to the legislature and not the administration, or that administrative law judges are independent of their agencies. The ideals of our democratic state are reconciled with the facts of life through these fictions. Why should the Court be an exception to these pretensions? We have long since learned that democratic principles need play no role in judicial review. The Court, like the other branches, may justify its behavior in terms of the Platonie lie. Or, as Molière suggests in The Misanthrope:

If you're still troubled, think of things this way:

11 Quoted in Kurland, supra note 8, at 336-37.
12 Id. at 504.

No one shall know our joys, save us alone,
And there's no evil till the act is known:
It is scandal, Madam, which makes it an offense,
And it's no sin to sin in confidence.

A more cynical and popular explanation of the Court's coverup of its sins is that the Court conceals the truth about its behavior because its revelation would adversely affect public confidence in the role of the Court. It is the Constitution and not the Court that is revered by the people. So long as the Court purports to speak as the voice of the Constitution, its decisions will be respected by those who are governed by them. If the mantle of the Constitution is removed and the ordinary men concealed behind the black robes are revealed as the framers of the rules, the Court's authority might be substantially diminished. Again the argument was well put by Molière (in Tartuffe):

In certain cases it would be uncouth
And most absurd to speak the naked truth.
With all respect for your exalted notions
It is often best to veil one's true emotions.
Wouldn't the social fabric come undone
If we were wholly frank with everyone?

Thus, the Court conceals its noninterpretivist behavior to preserve the social fabric. It has been said, "Our kind of society cannot endure if the controlling authority of the Law as derived from the Constitution is not to be the tribunal specially charged with the duty of ascertaining and declaring what is 'the supreme Law of the Land.'" On the other hand, the aristocratic Rochefoucauld pointed out that "[h]ypocrisy is the homage which vice renders to virtue."

Obiously, speculation can provide many answers for the Court's silence about its processes of constitutional deconstruction. Let me offer just one more, the one I find most persuasive, although there are

15 Cooper v. Aaron, 358 U.S. 1, 24 (1958) (Frankfurter, J., separate opinion).
no more proofs here than are available for the other hypotheses. The position that attracts me is not that the Court will not reveal its noninterpretive processes but that it cannot reveal them. This is premised on the notion that constitutional deconstruction proceeds as one literary critic has described the procedure of other hermeneutics. E. D. Hirsch in his small, but cogent, book The Aims of Interpretation wrote:

The words of the text alone do not "contain" the meaning to be communicated; they institute a spiritual process which, beginning with the words, ultimately transcends the linguistic medium. Canons of philological evidence and rules of procedure do not constrain this intersubjective communion, because understanding is not entirely a mediated process, but is also a direct speaking of a spirit to a spirit. The authority of this communion is determined less by philological investigation than by the vigor and inward conviction, the spiritual certainty of communion. The process is intuitive, because even though it is mediated at first by words, it is not constrained, in the end, by their form.

Intuitionism has a venerable tradition. It is probably the oldest principle of hermeneutics, being associated from the start with sacred interpretation. The letter killeth, but the spirit giveth life. But since sometimes only chosen souls have direct access to the spirit behind the letter, interpretation must be left to the priests who interpret for other men with instituted authority.

It is obvious that any interpretive disagreements based on intuitive premises can be resolved only by arbitrary fiat. But such a fiat could compel our assent only if the spiritual authority of the interpreter-priest were widely accepted....

Is this not what the Court seems to be telling us in cases like United States v. Nixon, where it repeated a formula that it had used before:


In the performance of assigned constitutional duties each branch of the Government must initially interpret the Constitution, and the interpretation of its powers by any branch is due great respect from the others. Many decisions of this Court, however, have unequivocally reaffirmed the holding of Marbury v. Madison, 1 Cranch 137 (1803), that "[i]t is emphatically the province and duty of the judicial department to say what the law is." Id. at 177. Since this Court has consistently exercised the power to construe and delineate claims arising under express powers, it must follow that the Court has authority to interpret claims with respect to powers alleged to be derived from enumerated powers.... the "judicial power of the United States" vested in the federal courts by Art. III, §1, of the Constitution cannot be shared.... We therefore reaffirm that it is the province and duty of the Court "to say what the law is."

If the Court is made up of the anointed—by reason of their presidential commissions—and it is given to them to "say what the law is," we are brought back to Hirsch's proposition that "any interpretive disagreements based on intuitive premises can be resolved only by arbitrary fiat. But such a fiat could compel our assent only if the spiritual authority of the interpreter-priest were widely accepted...."

"The Court, therefore, does not reveal its noninterpretive processes simply because, being intuitive, they are not amenable to rational explanation. ("Intuitionism" may also explain the antidote length and the floundering language of many opinions seeking to explain not the justices' reasons but their feelings.)"

In 1896, Mr. Justice Holmes said as much in his dissent in the Massachusetts case of Veitch v. Gunther:

The true grounds of decision are considerations of policy and of social advantage, and it is vain to suppose that solutions can be attained merely by logic and the general propositions of law which nobody disputes. Propositions as to public policy rarely are unanimously accepted, and still more rarely, if ever, are capable of unanswerable proof. They require a special training to enable any one even to form an intelligent opinion about them. In the early stages of law, at least, they generally are acted on rather as articulate instincts than as definite ideas for which a rational defence is ready."

He repeated the proposition in Lochner: "The decision will depend on a judgment of intuition more subtle than any articulate major premise." In sum, to satirize another of Holmes's aperçus, the life of constitutional law has not been reason, but it has been judicial intuition.

For myself, I am no more satisfied by instinctual or intuitive constitutional construction than by the many theories of fundamental values that my academic colleagues have recently come up with in defense of constitutional deconstruction. I am still of the belief that a written constitution must be more than a declaration of faith to be explicated by the ordained according to their unexplainable insights.

Let me conclude, then, by reminding you that the question of deconstruction is an old one. To a degree, the recent contributions to the subject are no more than an attempted reinvention of the wheel—a square wheel at that. In large measure, the deconstructionists are simply supplying excuses rather than justifications for a fait accompli, the expansion of the judicial power. And, like much of the work of the Court itself, the arguments appeal more to the heart than to the mind. Many of these recent commentators appear to be the children of the Age of Aquarius. A Constitution that was the child of the Age of Reason will necessarily be alien to them. In essence, their claim—perhaps like mine—rests on the divine right of academic lawyers "to say what the law is." I end then with a couplet from Pope's Dunciad:

May you, may Cam and Isis preach it long,
The Right Divine of kings to govern wrong.

167 Mass. 106 (1896) (emphasis added).
Five of the most recently appointed judges of the United States Court of Appeals share at least one other affiliation—they either graduated from or taught at the University of Chicago Law School. As the following profiles show, however, the diversity of their careers and opinions is at least as noteworthy as the similarities. They include a former solicitor general of the United States, a former U.S. congressman, and a former construction industry lawyer, as well as legal scholars and teachers. They have also been known for both liberal and conservative views. What they do share, besides their association with the Law School, is their record of exceptional ability and hard work.

Judge Robert H. Bork (J.D. '53)

Robert Bork has been called a “paradox,” a “conservative in radical’s clothing.” Such labels refer not only to his red beard, which he began to wear when beards were a trademark of the radical Left, but also to unconventional aspects of his legal thought. A conservative legal scholar, who has written that “the more appropriate forum for many disputes now resolved by the judiciary is the democratic political process,” he has nonetheless opposed legislation stripping the federal courts of jurisdiction over abortion, school prayer, and busing.

Judge Bork calls himself a “classical liberal”—someone who thinks that government intervention in individual affairs always has to be examined closely to make sure that the benefits of the intervention exceed what are bound to be the costs.” This cost-benefit approach to the role of government in general, and the judiciary in particular, had its roots in Bork’s experience as a law student. With a B.A. from the University of Chicago, he entered the Law School, he has said, as a “conventional New Deal liberal,” but he began to change his mind under the influence of some of his professors, especially Aaron Director, pioneer of the Law and Economics Program, and George Stigler.

After graduation and a year at the Law School as a research associate, Bork entered private practice. In 1962 he joined the Yale law faculty, where he soon became known for his legal scholarship. He specialized in antitrust and constitutional law and has written widely in both fields, not only in scholarly journals but in such diverse publications as the New Republic and Fortune magazine. He also became known for his barbed wit—he once told a seminar taught jointly with his friend Archibald Cox, “You’ll notice that my colleague’s elegant theories of jurisprudence are a cross between Edmond Burke and Fiddler on the Roof.”

In 1973 President Nixon chose Bork to be solicitor general of the United States. A few months later, as acting attorney general, he received national attention when he carried out the President’s request to dismiss Watergate special prosecutor Archibald Cox. Despite the unpopularity of that move, he was praised for keeping the Justice Department intact, and he remained in his post as solicitor general until 1977, when he returned to Yale. In 1981 he reentered private practice, as a partner in the Washington office of the Chicago firm of Kirkland and Ellis.

President Reagan’s appointment of Bork to the District of Columbia Circuit was expected to inject some controversy into that predominantly liberal court. Judge Bork’s opinions, however, are likely to command the respect, if not necessarily the adherence, of liberals and conservatives alike.

Judge Abner J. Mikva (J.D. '51)

When President Carter nominated Abner Mikva to fill a vacancy on the District of Columbia Circuit in 1979, he had been a well-known and often controversial political figure for 23 years. He had weathered many elections, some hotly contested, to serve five consecutive terms in the Illinois House and five terms in the U.S. House of Representatives. But there was at least one more political controversy in store for Mikva. In a two-hour Senate debate on his nomination, he was attacked, mainly by opponents of gun control, as a political activist who would carry his activism to the bench. Even after his confirmation, an unsuccessful suit was filed to nullify his appointment.

Mikva’s political career began in 1948, when he came to the University of Chicago as a law student and
worked for Democratic reform candidates Adlai Stevenson and Paul Douglas. After graduation in 1951, he clerked for Justice Sherman Minton of the U.S. Supreme Court and then returned to Illinois to practice law. He settled in Hyde Park, where in 1956 he became the first liberal independent candidate to win a seat in the Illinois House away from the Daley machine. In the state legislature he rose to become chairman of the Judiciary Committee.

After one unsuccessful bid for a congressional seat, in 1968 Mikva was elected to the U.S. House of Representatives, where he continued to support liberal reforms. When the 1971 reapportionment made Mikva’s reelection unlikely, he moved his family to Evanston. In 1974 he again won a seat in the House, where he remained, through two close elections, until he became a Circuit Court judge.

In the House Mikva served on the Brown Commission, responsible for congressional efforts to recodify U.S. criminal laws, and on the Judiciary and Ways and Means Committees, and was chairman of the Democratic Study Group, a coalition of 250 House Democrats seeking political reforms. He has received numerous awards and has written articles on subjects ranging from sovereign immunity to the legislative process.

On political activism and the judiciary, Mikva said in 1979: “I feel strongly that judges should not make law... If judges make policy, they violate their oath... A judge can only interpret and make clear and consistent the policy decisions of others.” Asked more recently why there is a popular conception that federal judges are too activist, he said:

I think the root cause of this perception stems from the large number of “vacuums” that are created by the policymakers at all levels of government. Sometimes the vacuum occurs because of the inaction of a legislative body... Sometimes the vacuum is deliberately created by affirmative action of the legislative body. In numerous instances, Congress passed statutes with particularly vague standards, with the expectation that federal courts... would fill in the gaps.

In addition, there are vacuums created by state legislatures refusing to carry out affirmative constitutional responsibilities, such as providing minimum standards of care in state mental institutions, prisons, etc... When these causes are added to the cases in which the courts carry out their traditional role of protecting minorities and individuals against the excesses of government (criminal cases, First Amendment cases, etc.) the net sum of these high-profile decisions creates the impression that the federal courts have taken over the country.

Judge Richard A. Posner

The nomination of Law School professor Richard Posner as a judge of the U.S. Court of Appeals for the Seventh Circuit signaled the Reagan administration’s intent to impose its own imprint on the selection of judges. As in the nominations of Judge Bork, Judge Ralph Winter, and Judge Antonin Scalia, Reagan turned to academia.

Posner has been called the most influential law professor in the country in the last 15 years. The author of The Economic Analysis of Law (1973), he believes that principles of classical economics can be applied to the “legal system across the board.” He is best known for his criticisms of antitrust laws. His views have been sharply attacked by legal scholars and others, but he has responded that it is most constructive “to state a definite position and follow its implications wherever it may lead and provide a wide target for people to aim at.” He is a prolific scholar and writer, and his critics and supporters alike admire his intellect and productivity.

In his first seven months on the bench, he has shown the same industry he applies to legal scholarship. He has written more than 50 opinions and says that opinion writing is what he enjoys most. In spite of his heavy judicial workload, however, he intends to continue writing and teaching (he has been a Senior Lecturer in Law at the University of Chicago since resigning his professorship).
Richard Posner graduated from Harvard Law School in 1962 and then clerked for U.S. Supreme Court Justice William Brennan. He worked for the Federal Trade Commission and later was an assistant to the U.S. solicitor general. He taught at Stanford Law School in 1968 before coming to the University of Chicago. He was editor of the Journal of Legal Studies, which he founded, from 1972 until he became a judge.

As for the New York Times how much his economic approach to law would influence his judicial decisions, Posner, like the other subjects of this article, indicated that he would strictly subordinate his personal views to his function as a judge. "I think it's fairly predictable that I'm not going to go on the court and have some incredible conversion from which I emerge some 1960's flower child. But for me to attempt to impress economics on the U.S. Code would not only be quixotic. It would mean I'd have minimal impact on the public policy of the country, and I'd destroy my reputation as a judge."

Judge Antonin Scalia

Former Law School professor Antonin Scalia is the academic most recently named to the federal appeals court by the Reagan administration. Now a colleague of Judge Bork and Mikva on the District of Columbia Circuit, Scalia taught at the Law School in the fields of administrative, constitutional, and communications law until his appointment this summer. He was also editor of Regulation magazine.

Last spring, the Washington Post reporting Scalia's probable nomination, called him "an outspoken conservative scholar who is widely recognized as an apostle of judicial restraint." Scalia responded: "I don't look upon judicial restraint as a religion that has apostles. Leaving aside the colorful language, I believe in judicial restraint. I am one of a growing number of scholars, not just conservative scholars, who think that the courts have simply begun to intrude excessively into the area of policymaking."

Scalia has had a close view of government policymaking from the administrative side. From 1971 through 1976 he worked for the federal government—as general counsel of the Office of Telecommunications Policy, as chairman of the Administrative Conference of the United States, and as an assistant attorney general in the Office of Legal Counsel. He has also been a consultant to the U.S. Civil Service Commission, the Federal Communications Commission, and the Virginia Court Systems Study Commission.

After graduating from Harvard Law School in 1960, Scalia spent a year traveling in Western and Eastern Europe as a Sheldon Fellow of Harvard University. He then practiced law with the Cleveland firm of Jones, Day, Cockley, and Reavis until 1967, when he joined the faculty of the University of Virginia Law School. After his five-year period of government service, he spent several months as a visiting professor at the Georgetown Law Center and a visiting scholar at the American Enterprise Institute, before coming to the University of Chicago in 1977.

In the past, Scalia has regarded teaching as his true calling. "I made the decision to teach a long time ago," he has said. "I'm a teacher. I went into government...just to see how the big monster works. I thought it would be useful for a professor to know about. It just so happened that one interesting job led to another, which led to another. But I never intended to make a career out of it." Now Judge Scalia has a new government career, one that the Reagan administration undoubtedly hopes will contribute to the taming of the big monster.

Judge Mary M. Schroeder

As noted at Mary Schroeder's swearing-in in 1979 as a judge of the U.S. Court of Appeals for the Ninth Circuit, she was the first woman lawyer to associate with any but a tiny firm in the state of Arizona. She was the first woman partner in a large firm in the Rocky Mountain West, and she was probably the first woman construction industry lawyer in the country. She was also the first woman from Arizona to argue a case before the U.S. Supreme Court.

This remarkable list of firsts as a woman, however, should not obscure the fact that Judge Schroeder's career has been distinguished by any standard. After graduation from the Law School in 1965, she worked for four years as a trial attorney in the Civil Division of the U.S. Department of Justice, followed by a year as law clerk to Justice Jesse A. Udall of the Arizona Supreme Court. In 1971 she entered private practice with the Phoenix firm of Lewis and Roca, where she did substantial work in appeals, labor law, and construction law. On her appointment in 1975 to the Arizona Court of Appeals, the head of the AFL-CIO gave her a legal dictionary inscribed: "To Mary Schroeder as she goes to the Court of Appeals: As an employers' lawyer, she has always been fair to labor."

Her 1975 appointment was the first Court of Appeals appointment under Arizona's merit system for the selection of appellate judges, and at that time she was one of only 12 women appellate judges in the country. Her reputation for fairness continued undiminished. In a 1976 poll of Arizona lawyers evaluating the state's judges at the county, state, and federal levels, Judge Schroeder received one of the highest scores. Her appointment by President Carter as a U.S. Court of Appeals judge therefore came as no surprise to those who had followed her career, even though she became the youngest circuit judge in the system.

As an attorney, Mary Schroeder was chairman of the committee to draft and enact the Arizona state criminal rights act, which won her the support of minority legislative leaders. As a judge, she worked with the ABA's Committee on Improvement of Appellate Practice, and was a consultant to the ABA Task Force on Appellate Procedures. She has also found time to teach as a visiting instructor at Arizona State University Law School, which gave her its distinguished achievement award.

Judge Schroeder has thus far realized the prediction of the Arizona Republic in 1975, that "Mrs. Schroeder is young enough and talented enough to look forward to a judicial career that could well carry her much higher."
The Fund for the Law School: 1981
A Message from the 1981 Fund for the Law School Chairman

The 1981 Fund for the Law School raised a record-breaking $678,000 in unrestricted gifts to the Law School. This total represents a modest 4% increase over 1980 contributions of $651,000.

We are gratified that the number of alumni contributors increased 15%, from 1,614 to 1,863, which augurs well for future campaigns.

Our Law School cannot exist without alumni support. In that spirit I wrote to all alumni who had contributed to the Law School, urging them to reply. The results of my correspondence were encouraging, and I believe future campaign chairmen will benefit from the responses.

I want to thank all of our committee members, class chairmen, staff, and donors for their contributions to the 1981 Fund for the Law School. Our support is an important part of the life of the Law School. I am sure that if each year we increase our support we will maintain our tradition of excellence on the Midway.

Roger A. Weiler '52

A Message from the 1982-83 Fund for the Law School Chairman

Over the years the generous financial support given to the University of Chicago Law School by its alumni and friends has enabled the institution to meet its ever increasing needs. The School's preeminent faculty, financial aid for its outstanding students, other student activities and services, and the law library all benefit from this loyal support.

The 1982-83 Fund will have an opportunity to continue this fine record, with the additional incentive provided by the Reuben and Proctor Challenge Gift, which will match increases in individual alumni donations. I hope that you will continue your commitment to our Law School's steadfast goal of remaining an institution of outstanding national reputation with unquestioned standards of excellence in education.

Ronald J. Aronberg '57
A Message from the Dean

I am extraordinarily grateful for the generous manner in which you have supported the 1981 Fund for the Law School. After tuition, which covers slightly more than 50% of our expenditures, the Fund for the Law School is our most important source of revenue. It exceeds income from endowment and pays for part of instruction, some unrestricted scholarship support, Law Library acquisitions, Law Review, Moot Court, activities of the Mandel Legal Aid Clinic, placement services, faculty assistance, and a host of other activities. We thank our alumni and friends from the East Coast to the West Coast. We also are most grateful to those who have contributed to the separate Clinic Fund.

I especially wish to thank Roger Weiler for his hard and productive work as Chairman of the Fund for the past two years. During that time, unrestricted gifts increased by almost 22%. Special thanks are also due to the many volunteers who donated their most valuable resource, their time, to make the 1981 campaign a success, and particularly to Donald Ephraim ’55, Daniel Feldman ’55, and John Naughton ’49, agents for the two classes with the highest percentage of graduates contributing to the Fund.

It would be impossible to maintain the position of the Law School in Chicago, the nation, and abroad but for two kinds of contributions. First of all, even if some of you, as students, thought that the School was “too tough,” you have shown the same seriousness of purpose and professionalism that characterize the School as you have gone on to distinguish yourselves as lawyers in private practice or corporations, in government service or legal aid, in business, as judges, or as academic teachers. The respect that your work has earned is indispensable for the well-being of the School.

Second, when you as graduates and friends of the Law School have measured the value of a University of Chicago Law School education, you have given us a generous measure of support. Without that support, the Law School could not have survived prior periods of strain. Without that support, we could not survive the present period of extraordinary financial difficulties for private higher education.

As I am concluding my fourth year as Dean, I should like to express my optimism about the future of our great Law School and thank you for the support you have given the School.

Dean Gerhard Casper

Donald Ephraim and Daniel Feldman, agents for the class of 1955—the class with the highest percentage of graduates contributing to the Fund for the Law School
Comparative Unrestricted Annual Contributions

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Five Classes with Highest Percentage of Graduates Contributing

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Raymond W. Gee  
Vernon H. Houchen  
James V. Hunt, Jr.  
Daniel S. Kowalczyk  
George S. Lundin  
Robert E. Nage, Jr.  
Howard M. Peltz  
Gordon P. Ralph  
Daniel G. Reese  
Edwin H. Shanberg  
Jay L. Smith  
Hubert Thurschwell  
Lee J. Vickman  
Wesley A. Wildman  
Edwin A. Strugala  

1955  
Norman Abrams  
Charles T. Beeching, Jr.  
Richard L. Boyle  
Hugh A. Burns  
Roger C. Crant  
John N. Dahl  
Joseph N. DuCanto  
Donald M. Ephraim  
Julian R. Ettelson  
A. Daniel Feldman  
Daniel N. Fox  
Keith E. Fry  
Harris A. Gilbert  
John R. Grimes  
Solomon I. Hirsh  
Anton Hohler, Jr.  
Robert J. Kutak  
Adrian Kuyper  
Robert M. Lichtman  
Joseph S. Lobenthal, Jr.  
Edward J. McGowan  
Carleton F. Nadelhoffer  
Rita K. Nadler  
Thomas L. Nicholson  
Bernard J. Nussbaum  
William J. Reinke  
Henry C. Steckelberg  
Wallace J. Stenhouse  
Marshall A. Susler  
Kenneth S. Tollef  
Alan S. Ward  
Harold A. Ward III  
Stanau E. Weinbrecht  
Michael A. Wyatt  

1956  
Harry R. Adler  
Harry T. Allan  
Donald E. Arnell  
Ingrid L. Beall  
John M. Bowles  
Langdon A. Collins  
Joseph Davis  
Charles A. Docter  
B. Mark Fried  
Gerald F. Giles  
Lewis R. Ginsberg  
Solomon Gutstein  
Richard K. Hooper  
Michael L. Igoe, Jr.  
Newell N. Jenkins  
George Miron  
Marvin E. Pollock  
Lawrence Rubinstein  
Marvin Sacks  
Donald M. Schindel  
Preble Stolz  
Victor L. Walshirk  
O. James Werner  

1957  
John M. Alex  
Ronald J. Aronberg  
Stuart B. Belanoff  
Richard B. Berryman  
Stanley B. Block  
Herbert L. Caplan  
Miriam L. Chesslin  
Robert C. Claus  
Kenneth W. Dam  
John D. Donlevy  
Joseph DuCoeur  
C. Curtis Everett  
Frank C. Faris  
Barbara V. Fried  
Ernest B. Goodman  
Robert M. Green  
Alden Guild  
#Gordon E. Insley  
Daniel E. Johnson  
Paul R. Klein  
Howard G. Krane  
#Peter D. Lederer  
Louis V. Mangrum  
Robert N. Navratil  
Dallin H. Oaks  
Sidney L. Rosenfeld  
Peter K. Sivaslian  
Payton Smith  
#Harry B. Sondheim  

1958  
C. John Amstutz, Jr.  
Charles R. Andrews  
James E. Beaver  
Charles R. Brainard  
Richard W. Burke  
Ernest G. Crain  
J. Stephen Crawford  
Charles F. Custer  
Allen C. Engerman  
Ward Farnsworth  
Francis J. Gerlits  
Robert C. Gobelman  
Donald M. Green  
Philip H. Hedges  
Charles E. Hussey II  
Francis A. Karem  
William S. Kaufman  
Ralph B. Long  
Fred R. Mardell  
A. Conrad Olson  
Wayne E. Peters  
Robert L. Reinke  
John A. Ritsher  
Carl O. Rodin  
Frederic P. Roehr III  
John G. Satter, Jr.  
Ronald L. Tonidandel  
Robert E. Ulbricht  
Julius Y. Yacker  

1959  
George V. Bobrinsky, Jr.  
Jeanne S. Bodfish  
Matthew E. Bristlaw  
Kenneth V. Butler  
Ronald O. Decker  
Robert L. Doan  
R. Coridon Finch  
Alfred J. Gemma  
Robert H. Gerstein  
John V. Gilhooly  
Gerald Goodman  
Kenneth S. Haberman  
Norman J. Hanfling  
Kenneth Howell  
Thomas W. Huber  
John Jubinsky  
Herma H. Kay  
Darrell D. Kellogg  
L. Hugh Kemp  
Charles W. Kiffin  
Sinclair Kossoff  
Frederic S. Lane  
Harold L. Levy  
Mark S. Lieberman  
Robert J. Martineau  
Frank D. Mayer, Jr.  
Melvin S. Newman  
Pauline Corthell  
Nightingale  
C. David Peebles  
Alford R. Penniman  
Ellis E. Reid III  
Edward Sack  
George L. Saunders, Jr.  
Gloria P. Senftner  
Stanley M. Wanger  
Robert H. Wier  

1960  
Sidney P. Abramson  
#Peter Aecherman  
Benjamin P. Alschuler  
Stuart A. Applebaum  
David R. Babb  
David M. Becker  
Ira S. Bell  
Roger H. Bernhardt  
John W. Castle
Elliott Cohen
Lawrence M. Cohen
Gary L. Cowan
Edward J. Cunningham
William P. Doherty, Jr.
Edward K. Eberhart
David K. Floyd

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R. Dickey Hamilton
Luther A. Hartshun
Ronald B. Hemstad
David L. James
Joseph H. H. Kaplan
A. John Klaasen, Jr.
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Norman G. Kurland
Stephen A. Land
Peter F. Langrock
Sheldon L. Lebold
Gerald F. Munitz
J. Michael Newberger

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Bruce D. Patner
William W. Sadd
Jan M. Schlesinger
McNeil V. Seymour, Jr.
Richard H. Siegel
John A. Spanogle, Jr.

# George P. Stephan
Harvey B. Stephens
Ross P. Walker
Ralph E. Wiggen
Arthur Winoker
Edward E. Yalowitz
Morton H. Zalutsky

1961
George P. Blake
Lorens Q. Brynestad
Craig E. Castle
James C. Conner
Donald C. Dowling
William S. Easton
Donald E. Egan
Richard R. Elledge
Robert G. Evans
Gabriel E. Gedvila

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Richard M. Harter
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Richard A. Heise
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Thomas N. Jersild
Charles E. Kopman
Richard Langerman
Donald A. Mackay
Laurence P. Nathan
Michael Nussbaum
Richard N. Ogle
Jerry Pruzan

C. Keith Rooker
Stephen A. Schiller
Thomas D. Schwartz
Larry Scriggins
Calvin Selfridge
Butler D. Shaffer
Carl H. Shuster
Arthur M. Solomon
Lois Solomon
Herbert J. Stern
Erwin A. Tomaschoff
Allen M. Turner
James Valentino, Jr.
Donald M. Wassing
David M. Wittenberg

Robert A. Woodford
Joel Yohalem

1963
Alexander C. Allison
Quinn D. Benson
John D. Bolger, Jr.
George F. Bruder
Ronald S. Cope
David L. Crabb
Gary E. Davis
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Terry D. Diamond
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Anthony C. Gilbert
Sheldon M. Gisser
Marvin Gittler
Burton E. Glazov
Gene E. Godley
James J. Granby
Thomas M. Haney
Richard A. Hodge
William T. Huyck
Noel Kaplan

1962
Barry M. Barash
Allan E. Biblin

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Richard W. Bogosian
Martin N. Burke III

# David S. Chernoff
Robert E. Don

# Wulf H. Döser
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William B. Fisch
Michael J. Freed
Donald W. Glaves
David B. Goshien
Edward B.

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Axel H. Kleboemer
Anne E. Kutak
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Richard L. Marcus
Sheldon M. Meizlish
George E. Moorman
Morrie Much

Frank F. Ober
Robert W. Ogren
William G. Pfefferkorn
David M. Rothman

1964
Terence J. Anderson
Gilbert F. Asher
Alfred E. Aspengren
Melinda A. Bass
Lawrence G. Becker
Edward M. Burgh
Gerald B. Cohn
Joseph D. Cooper
L. Jorn Dakin
John D. Daniels

Joseph N. Darweesh
Michael Davidson
Samayla D. Deutch
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John R. Falby, Jr.
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Zev Steiger
Peter E. Thauer
Curtis L. Turner
Michael R. Turoff
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Martin Wald
Robert A. Weninger
Michael G. Wolfson
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1965
Dennis R. Baldwin
Marvin A. Bauer
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D. Rodney Bluhm II
W. Donald Boe, Jr.
Andy L. Bond
Alec P. Bouxsein
Michael E. Braude
Thomas E. Cahill
Frank Cicero, Jr.
John T. Conlee
Seymour H. Dussman
Charles L. Edwards
William J. Essig  
Bruce S. Feldacker  
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Sherman D. Fogel  
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Roger R. Fross  
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Joseph H. Golant  
Robert J. Goldberg  
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William A. Halama  
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Peter P. Karasz  
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Gerald S. Klein  
Michael B. Lavinsky  
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Douglas D. McBroom  
Thomas A. McSweeney  
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Walter D. Miller  
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Stuart C. Nathan  
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Kenneth P. Norwich  
David C. Nyberg  
Kenneth L. Pursley  
John A. Rossmeissl  
Walter S. Rowland  
Bernard A. Schifique  
Mary M. Schroeder  
Milton R. Schroeder  
Lloyd E. Shefsky  
Terry J. Smith  
Dale V. Springer  
William F. Steigman  
A. Richard Taft  
Edward E. Vaill  
John L. Weinberg  
Thomas G. West  
William A. Zolla

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#Anonymous (1)  
Stephen L. Babcock  
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Russell A. Banham  
Karl R. Barnickol III  
Steven L. Bashwiner  
Robert M. Berger  
James E. Betke  
Charles C. Bingaman  
Roland E. Brandel  
David N. Brown  
Donald J. Christl  
Jerry N. Clark  
Roger L. Clough  
Lewis M. Collens  
Robert C. Cordey  
John C. Cratsley  
Richard N. Doyle  
Leonard P. Edwards III  
Terry Y. Feiertag  
Lyn I. Goldberg  
Melvin B. Goldberg  
Micalyn S. Harris  
David J. Joyce  
Eugene M. Kadiash  
David E. Kartalia  
Peter R. Kolker  
Elbert J. Kram  
Duane W. Krohnke  
David C. Landgraf  
Ronald E. Larson  
Patricia H. Latham  
Neil M. Levy  
Alfred R. Lipton  
David C. Long  
Paul T. McCarthy  
Thomas H. McCracken  
Donald L. McGee  
Peter J. Messitte  
Stephen E. Mochary  
James L. Nachman  
Mark R. Ordower  
Richard E. Poole  
Jeffrey C. Rappin  
Peter E. Riddle  
Walter J. Robinson III  
Peter B. Rotch  
Marc P. Samuelson  
Bruce H. Schomacher  
Michael L. Shakman  
Richard G. Singer  
Robert G. Spitzer  
Rolf O. Stadheim  
David S. Tatel  
C. Bruce Taylor  
Donald M. Thompson  
Steve M. Turner  
Voyle C. Wilson  
Joe C. Young  

1967

William L. Achenbach  
Donald G. Alexander  
C. David Anderson  
John D. Ashcroft  
James L. Baillie  
Milton M. Barlow  
 Jerry M. Barr  
John H. Barrow  
John R. Beard  
Joel Behr  
John J. Berwanger  
Neal J. Block  
Steven R. Boyers  

1968

*Geoffrey A. Braun  
Edwin S. Brown  
John L. Calton  
Morris G. Dyner  
Keith E. Eustin  
David W. Ellis  
John S. Elson  
Andrew L. Fabens III  
Robert M. Farquharson  
George P. Felemen  
Lawrence R. Fish  
Richard T. Franch  
John T. Gaubatz  
Alvin J. Geske  
Richard J. Goetsch  
Charles P. Gordon  
Richard L. Grand-Jean  

*Stephen Herson  
John C. Hoyle  
Christopher Jacobs  
Harris S. Jaffe  
Peter M. Kennel  
James L. Knoll  
Thomas F. Koch  
Howard M. Landa  
Michael A. Lerner  
Elinor B. Levinson  
Boardman Lloyd  
Philip A. Mason  
Arthur J. Massolo  
Thomas P. Mehner  
Michael E. Meyer  
Judson H. Miner  
David R. Minge  
Mary Mochary  
John W. Mueller  

John E. Mullen  
*Charles E. Murphy  
James F. Myers  
Robert H. Nichols II  
*Stanley E. Ornstein  
*Gary H. Palm  
David L. Passman  
Peter G. Prina  
Robera Cooper Ramo  
Barry Roberts  
John D. Ruff  
Bernd P. Rüster  

Don S. Samuelson  
Samuel I. Shanes  
Marsha Shanel  
Thomas R. Shanel  
Michael S. Sigal  
Michael F. Sullivan  
Junjiro J. Tsubota  
Edward M. Walker, Jr.  
Fred B. Weil  
Sidney E. Wurzburg  

1969

#Mark N. Aaronson  
Melvin S. Adess  
*Frederick W. Axley  
Lee F. Benton  
Joel M. Bernstein  
Harvey E. Blitz  
Hendrik De Jong  

Karl M. Becker  
Dale E. Behoffer  
Frank N. Bentkover  
Joseph J. Bentley  

#Joel Berger  
Gordon H. Berry  
Wilbur H. Boies IV  
Peter R. Bornstein  
Samuel J. Brakel  
Steven L. Clark  
Geoffrey L. Crooks  
William E. Decker  
Paul Falick  
John P. Falk  
Arthur W. Friedman  
Richard F. Friedman  

#Kenneth E. Fries  
Douglas F. Fusion  
Patrick D. Halligan  

*Celeste M. Hammond  
Darrell B. Johnson  
Thomas M. Landye  
Thomas E. Lippard  
Ann M. Lounis  

William H. Lynch  
James E. Mann  
Charles A. Marvin  
Barbara Mather  
T. Michael Mather  
Philip R. McKnight  
John E. Morrow  
Harve H. Mossawir, Jr.  
Gary L. Prior  
James W. Rankin  
James G. Reynolds  
Lawrence C. Roskin  
Dennis M. Sabbath  
Jan J. Sagett  
Robert E. Sandy, Jr.  
Allen H. Shapiro  

*Deming E. Sherman  
Donald L. Shulman  
David M. Stigler  

#Thomas P. Stillman  
Laurence N. Stenger  
Robert E. Van Metre  
C. Nicholas Vogel  
Heathcote W. Wales  
William R. Wallin  
James J. Warfield  
Peter Wood  
James T. Williams  
David P. Wolf  
Edward M. Zachary  

1968

Anonymous (1)  
*Fred H. Altshuler  
Janet Ashcroft  

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John M. Delehanty
Quin A. Denvir
Alan R. Dominick
Charles L. Dostal, Jr.
Gary R. Edidin
J. Eric Engstrom
*Susan A. Henderson
Robert G. Hershenhorn
John E. Hill
Case Hoogendoorn
Allan Horwick
Lawrence H. Hunt, Jr.
Marilyn S. Ireland
Thomas V. Irwin
Randall M. Jacobs
Dennis L. Jarvela
John A. Johnson
Harold R. Juhnke
Joel H. Kaplan
Daniel M. Katz
*Patrick A. Keenan
Thomas D. Kitch
*Stephen E. Kitchen
Charles R. Levun
Gary T. Lowenthal
Warren E. Mack
#James T. Madej
Ronald R. Marich
Robert D. Martin
David B. Paynter
Thomas L. Ray
Grant E. Rice
J. David Rich
James R. Richardson
Robert I. Richter
Peter W. Schroth
William L. Severns
Milan D. Smith, Jr.
Nelson A. Soltman
S. Charles Sorenson, Jr.
Byron E. Starns, Jr.
Stephen A. Tagge
Kenneth R. Talle
Barron M. Tenny
Henry J. Underwood, Jr.
*Thomas Unterman
Philip L. Verveer
#Gordon G. Waldron
Clifford L. Weaver
James H. White
Howard M. Wilchins
John P. Wilkins
Michele Williams
David C. Wright
Kenneth W. Yeates

1971

Gerardo M. Boniello
Peter W. Bruce
C. John Buresh
Walter S. Carr
Martin R. Cohen
Erica L. Dolgin
Judith S. Dubester
Alan J. Farber
Richard S. Frase
John M. Friedman, Jr.

#Marjorie E. Gelb
*Jeffrey S. Goddess
James H. Hedden
Margaret Hedden
Walter Hellerstein
George A. Hesert, Jr.
Edwin E. Huddleson III
Paul F. Jock II
Randolph N. Jonakait
George G. Martin
Terry A. Mellroy
*Lee T. Polk
Lawrence E. Rubin
Robert P. Schmidt
Paul M. Shupak
Mark B. Simons
Richard A. Skinner
Robert J. Stucker
John B. Truskowski
Francis E. Vergata
#James P. Walsh
L. Mark Wine
Bernard Zimmerman

1972

#Nancy Albert-Goldberg
Barry S. Alberts
Rosemary B. Avery
Daniel Irvin Booker

#Harold Chesnin
Samuel D. Clapper
Lawrence J. Corneck
Kimball J. Corson
William H. Cowan
Robert A. DiBiccaro
James E. Fearn, Jr.
James C. Franczek
Michael R. Friedberg
Michael P. Gardner
David W. Gast
Roger N. Gold

#Nancy Albert Goldberg
*Steven A. Grossman
Joseph C. Hanlon
Schuyler K. Henderson
John W. Hough
Marc R. Isaacson
Jeffrey Jahns
Alan N. Kaplan
Steven Z. Kaplan

#Karen J. Kaplowitz
Robert A. Kelman
Stephen K. Kent

Thomas L. Kimer
Jonathan C. Kinney
M. David Kroot

#Peter M. Lauriat
Carl B. Lee
Nicholas W. LeGrand
Gerald D. Letwin

#Hartmut Lieber
Adam M. Lutynski
Neal D. Madden
Philip P. McLaughlin
Robert L. Misner

#Ralph G. Neas
Theodore H. Nebel
Joel S. Newman

#Marianne O'Brien
Andrew C. Peterson

#Mark Pettit
Allan J. Preckel
Michael D. Ridberg
James E. Rottulsok
Donna Saunders
Mark L. Silbersack
Teft W. Smith
Margaret M. Stapleton
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Mason W. Stephenson

#Lynn R. Sterman
Paul M. Stokes
Geoffrey R. Stone
William R. Sullivan, Jr.

#John L. Swartz
Ilene Temchin

#Judith Bernstein Tracy
Robert J. Vancrumer

Peter M. Van Zante
Paul W. Voegeli

Thomas H. Woldendale

1973

Anonymous (1)
David M. Allen
Kenneth E. Armstrong
Samuel M. Baker

#Stephen S. Bowen
Michael A. Braun
Joseph J. Bronskey
John J. Buckley, Jr.
James E. Burns, Jr.

#Stephen A. Canders
*George J. Casson, Jr.
Michael E. Chubrich

David R. Clowers

#John M. Collins
Harlan M. Delsy
John A. Erich
Howard G. Ervin III
Deborah C. Franczek

David J. Gerber
Don E. Glickman
Virginia Harding
William E. Herzog

#Aaron E. Hoffman

Morton J. Holbrook III
Alan J. Howard
Betty C. Jacobs
John G. Jacobs

#Marian S. Jacobson
Robert M. Kargman
Jerald A. Kessler
Gary I. Klater
Richard A. Kruk
James P. Lansing
James T. Leak
John W. Mauck

*Michael L. McCluggage
William P. McLauchlan
Albert Milstein
Michael M. Morgan

#Donna M. Murasky
Lawrence G. Newman
Robert E. Nord
Nancy K. Olmsted
Vincent F. O'Rourke, Jr.

Michael W. Puyette
Barbara F. Petersen
Thomas Pillari
Rebecca H. Rawson
David M. Rieth
Paul T. Rutten
Michael T. Sawyier
Jay L. Schultz
Robert P. Schuwerk
Hal S. Scott
James R. Silkenat

#Robert H. Smith
Ann Spiotto
Charles H. Troe
Jeffrey D. Warren

1974

Larry A. Abbott
Simon H. Aronson
Virginia Aronson
Frederick E. Attaway
Mary Azcuena
Michael F. Baccash

#Gary H. Baker
Victor Bass
John M. Beal

#Robert S. Berger
Steve A. Brand

*Roger T. Brice
Jean W. Burns
David L. Calfee
Ronald G. Carr
Ronald A. Cass
Howard A. Cohen

#Stephen A. Cohen
Rand L. Cook
Linda Van Winkle

Deacon
Christopher C. DeMuth
Frank H. Easterbrook

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Wilson P. Funkhouser, Jr.
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Matthew B. Gorson
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Thomas N. Harding
Steven L. Harris
Carolyn Hayek
#Raymond P. Hermann
Thomas C. Hill
Irene Holmes
Oliver L. Holmes, Jr.
Richard P. Horn
Leland E. Hutchinson
Kirk B. Johnson
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#Eric L. Kemmler
Peggy L. Kerr
Peter Kontio
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Delos N. Lutton
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Thomas W. Scharbach
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Stewart R. Shepherd
Darryl O. Solberg
Robert M. Star
Stanley M. Stevens
Stinson W. Stroup
Thomas C. Walker
Neil S. Weiner
E. Kent Willoughby

1974
Franklin G. Allen III
James M. Ball
Sheldon I. Banoff
#James E. Bartels
*Philip H. Bartels
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Frederick W. Bessett
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James S. Whitehead
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#Susan E. Wise
Neal L. Wolf

1975
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Julian R. Birnbaum
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Jonathan Kahn
Harold L. Kaplan
Larry S. Kaplan
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Grant Gilmore (1910-1982)

Grant Gilmore, a member of the Law School faculty from 1965 to 1973, died on May 24 at his home in Norwich, Vermont. He was 72. At his death Gilmore was Professor of Law at the University of Vermont, whose faculty he had joined following his retirement from Yale Law School in 1978.

Gilmore had long been recognized as one of the most gifted teachers and legal scholars of his time. His career was an unusual one; his academic life began as a teacher of romance languages at Yale, where he had received a Ph.D. in 1936. He entered Yale Law School in 1940 and became editor-in-chief of the *Yale Law Journal*. Following his graduation he practiced with the firm of Milbank, Tweed, and Hope in New York and served in the office of General Counsel of the Navy. He returned to Yale to teach in 1946 and remained there until joining the University of Chicago faculty in 1965. He became the first appointee to the Bigelow Professorship at Chicago in 1967. In 1973 he returned once again to Yale, where he was Sterling Professor until his retirement. Prior to joining the Chicago faculty, he had been a visiting professor at Chicago in 1949 and again in 1957.

As a scholar, Gilmore was especially noted for his work in the fields of admiralty and commercial law. With Professor Charles Black, he was the author of *The Law of Admiralty* (1st ed. 1957, 2d ed. 1975), the standard treatise in the field. He was one of the principal architects of Article 9 of the Uniform Commercial Code. In 1965 he published his two-volume *Security Interests in Personal Property*, a work widely acclaimed as one of the greatest of modern legal commentaries, for which he was awarded Harvard's coveted Ames Prize and the Triennial Award of the Order of the Coif. In presenting the latter award, the late Professor Herbert L. Packer of Stanford gave this appraisal of Gilmore's achievement:

*Grant Gilmore's work exhibits the singular power of the single human mind, not likely to be matched by any team or committee or task force, to impose a kind of order on unruly and recalcitrant facts, to see a piece of reality in a new way. His field has been traditionally obscure, technical, particularistic, rule-ridden. Through his labors and those of others, especially the late Karl Llewellyn, a statutory tour de force has illuminated the field. And now, by a superb act of critical detachment, Professor Gilmore has reappraised that reappraisal, set it in its historic perspective, analyzed its central problems and unsparingly criticized its deficiencies. He is no builder of closed systems; he substitutes no new dogmas for the old ones. If his treatise is "definitive"—and it is—that quality inheres in its recognition that soundly conceived legal doctrine is simply a starting point for thinking about a problem in its context. Finally, Grant Gilmore exhibits a lucidity and grace in this, as in his other works, that stands as a reproach to those who think style is somehow separate from substance. The mind at work in these pages is fastidious, ironic, aristocratic. These are not qualities that are much in vogue today; they are qualities that are worth celebrating when brought, as here, to the solution of significant legal and intellectual problems.*

Gilmore's typically graceful and ironic response on the same occasion suggests the style and philosophy that helped make him so revered as a teacher. He said in part:

*We do something called teaching. But we all know from bitter personal experience that nothing is, or can be, taught once we get beyond the communication to small children of the basic mysteries on which civilization depends—how to read, how to write, how to count. We can of course pump students full of facts or even brainwash them—but pumping facts is a waste of everybody's time and washing brains in public is, as Justice Holmes might have told us, dirty business. Learning is what the students are there for and all we know about learning is that, on any level of complexity, it is every man for himself and by himself, imposing a perhaps delusive formal pattern on the swirling chaos by a prodigious effort of the individual will. It may be that we can stimulate, or irritate, an occasional student into undertaking this arduous task—but, if we do so, it will be much more by accident than by our own design. Karl Llewellyn once observed that the function of the law teacher is not to let the true light shine; he was wise to content himself with that negative formulation.*

Gilmore is survived by his wife Helen, a psychiatrist, and a son and daughter.

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1 A list of Gilmore's writings appears at 87 *Yale Law Journal* 905 (1978).
Crosskey Remembered

Dear Editor:

I read the Spring issue with a great deal of nostalgia. When I was at the Law School, I took several courses from Bill Crosskey. It really didn't make any difference what subject Crosskey taught. He always dealt with the realpolitik of the judicial process. He scoffed at the very idea of a Hutchins or Adler teaching any course in the Law School.

I can recall—as though it occurred yesterday—one particular incident in his class. I told the story every year when I taught at the George Washington University Law Center.

One day, Crosskey told us that he was going to spend the entire session the following week on one particular U.S. Supreme Court case involving Standard Oil which he wanted everyone in the class to know backwards and forwards. We all dashed up to the library and not only read the case, but reread it a half dozen or more times, and then had a series of bull sessions discussing it.

When we got to class the following week, Crosskey started down the role. He called on Abbott, who made a recitation, and Crosskey's response was something along the line of “What? And you want to be a lawyer? You don't understand the first thing about the case.” He continued down the roll, and no matter what any student said, Crosskey's response was disdainful and critical.

He then said: “All right, you great budding legal giants who are disciples of Hutchins and Adler, you fledgling lawyers who are going out into the real world one of these days and cite cases for their great constitutional and precedential posture, let me tell you what that case stands for. Had you done your homework and researched the case properly, you would have found that a year before that case was decided, Standard Oil had been before the Court in altogether another matter and had won the decision. I was clerking for Justice Taft, who did not participate in the case because he was in Europe at the time. When he got back to Washington, he called me into his chambers and asked me what the court had held in the Standard Oil case. I told him that Standard Oil had prevailed. He turned to me and said: ‘Bill, if those SOBs ever come before this court again, let's get 'em.' And gentlemen, that's the principle of that five to four decision that you studied last week. We got Standard Oil!”

Crosskey had, as the article points out, a “rugged independence bordering on iconoclasm.” He brought an approach to law that no one of the other professors was willing or able to bring.

Your comment that he has been honored “mainly by neglect” is unfortunate. Although his volumes on the Constitution are not often referred to or cited, the fact remains that for a great number of us who were students of his, we continue to remember and honor him in our daily lives and in our profession.

Marcus Cohn, J.D. '38
Washington, D.C.

The Flügeladjutant Again

Dear Professor Blum:

I enjoyed reading your exchange of letters concerning the Flügeladjutant, but I do have one question: Where is “section 566.1” of the Internal Revenue Code which is cited in the article? I'm certainly no tax expert (and not even a particularly good speller), but my copy of the Code doesn't even have a section 566.1.

Regrettfully, I conclude:

Tax law, even fugling, Blum may know.
Caspar, an expert on umlauts. But who, at the U. of C., checks citations?
Tsk, tsk, a rather sorry show.

Jean Wegman Burns, J.D. '73
Philadelphia, Pennsylvania

Editor's Note: The editor, not Professor Blum, was responsible for the poor show in question. The correct citation is: Internal Revenue Code, sections 162(a) and 262.

Dear Professor Blum:

I very much enjoyed "The Flügeladjutant Revisited" in the Spring issue. I do spend some time in my basic income tax course talking about Kleinwächter's Conundrum, though that very label seems to be taken by many students to indicate that these are not serious problems. (They may be right. One supposes that in a generally free labor market, pilots who hate to fly, tasters who hate wine, or theater ushers who hate movies, are rare).

Since the protocol of correspondence on this subject seems to require concluding with doggerel, I offer the following "Public Servant's Lament":

Life imitates art, we know,
Be it opera or road show.
But should perks be included
If refusal’s precluded
And the salary’s already too low?

Richard L. Schmalbeck, J.D. '75
Durham, North Carolina

Gentlemen:

I thoroughly enjoyed your article "The Flügeladjutant Revisited" in the Spring issue. Out of equal portions of compassion and laziness, I refuse to wax poetic. However, you might be interested to know that I have had the original source of the Flügeladjutant conundrum, the introduction to Kleinwächter's Das Einkommen und Sein Verteilung, translated. I quoted huge batches of it in my recent article, "Transferability, Utility and Taxation," which appeared in the Fall 1981 issue of the Kansas Law Review. In that article, I argue that, since the Flügeladjutant could neither rent out his princely lodgings nor sell his opera tickets to another, it would have been unfair in any event to tax him on their retail value. The full translation of Kleinwächter's introduction is available through the Wake Forest Law School Library.

Thanks again for an enjoyable issue.

Joel S. Newman, J.D. '71
Winston-Salem, North Carolina
Kenneth Dam Becomes Deputy Secretary of State

Kenneth Dam's Chicago colleagues agree that Chicago's loss is Washington's gain. "I cannot think of any individual better qualified by training, interests, and experience to serve as Secretary Shultz's deputy," said Dean Gerhard Casper when Dam was nominated to his new post. University President Hanna Gray commented: "Kenneth Dam will be as fine a Deputy Secretary as he is Provost of the University.... Much as we will miss him, we are fortunate in the dedication to public service of a man of such broad-ranging intelligence and competence."

John Reilly, president of the Chicago Council on Foreign Relations, said: "He combines keen intelligence, deep knowledge of the substance of international affairs, and solid experience with the United States government."

Mr. Dam had been a member of the faculty of the Law School since 1960 and was the Harold J. and Marion F. Green Professor of Law. He taught in the areas of international law, international organizations, international trade, and monetary problems, and served as director of the Law and Economics Program until his appointment as Provost of the University in 1979.

Raised on a Kansas farm, Dam graduated from the University of Kansas in 1954 and received his J.D. from the University of Chicago in 1957. After clerking for U.S. Supreme Court Justice Charles E. Whittaker, he practiced law in New York before joining the Law School faculty.

Mr. Dam was assistant director of the Office of Management and Budget under George Shultz from 1971 until 1973, and in 1973 was executive director of the U.S. Council of Economic Policy. Like Secretary Shultz, he has a strong interest in the economic aspects of international affairs and also a deep concern for Western Europe.

Mr. Dam is the author of many publications, including Economic Policy Beyond the Headlines, written with Mr. Shultz and published in 1977, and his most recent book, The Rules of the Game: Reform and Evolution in the International Monetary System, published by the University of Chicago Press this year.

Professor Richard Epstein has been appointed the James Parker Hall Professor of Law. Mr. Epstein is an authority in the fields of torts and product liability and is editor of the Journal of Legal Studies. He received a B.A. from Columbia University in 1964, a B.A. in jurisprudence from Oxford in 1966, and an L.L.B. from Yale Law School in 1968. He has taught at the University of Chicago Law School since 1972. The James Parker Hall Professorship was established in 1930 in memory of James Parker Hall, Dean of the Law School from 1904 until his death in 1928. The most recent incumbent has been Bernard D. Melzer '37, who is now Distinguished Service Professor of Law.

Dennis Hutchinson, who has been a Lecturer in Law, has been appointed Associate Professor of Law. Mr. Hutchinson is also the Peter B. Ritzma Associate Professor in the College. Mr. Hutchinson graduated from Bowdoin College, attended the Law School (1969-70), studied at Oxford University as a Rhodes Scholar, and received a L.L.M. degree from the University of Texas at Austin. He served as law clerk to Judge Elbert Tuttle of the U.S. Court of Appeals for the Fifth Circuit, and to Justices Byron R. White and William O. Douglas of the U.S. Supreme Court. Before joining the University of Chicago, he was associate professor of law at Georgetown University Law Center.

Gareth Jones will return to the Law School for the 1983 spring quarter as the Lurcy Visiting Professor of the University of Chicago. Mr. Jones, who is the Downing Professor of the Laws of England at Cambridge University, was Visiting Professor of Law and Charles J. Merriam Scholar during the 1982 spring quarter.
Professor Jo Desha Lucas has been appointed the Arnold I. Shure Professor of Urban Law. Mr. Lucas teaches state and local government as well as state and local taxation, and is also an authority in the fields of civil procedure, federal courts, and admiralty. He attended Syracuse University (A.B., 1947; M.P.A. 1951), the University of Virginia Law School (LL.B. 1951), and Columbia University Law School (LL.M., 1952). He joined the University of Chicago Law School faculty in 1953. The Arnold I. Shure Professorship in Urban Law was established in 1971 in honor of Arnold Shure, who graduated from the Law School in 1929. The most recent incumbent has been Allison Dunham, the Arnold I. Shure Professor Emeritus of Urban Law.

Professor Franklin E. Zimring has been the Karl N. Llewellyn Professor of Jurisprudence. He is also the Director of the Center for Studies in Criminal Justice. A graduate of Wayne State University (B.A., 1963) and the University of Chicago Law School (J.D., 1967), Mr. Zimring joined the faculty of the Law School in 1967. He is an authority in empirical and theoretical studies of the criminal justice system and the legal problems of juveniles. The Karl N. Llewellyn Professorship in Jurisprudence was established in 1973 in honor of Professor Karl Llewellyn, a member of the Law School faculty from 1951 until his death in 1962. The past holder of the professorship was Edward Levi, now the Glen A. Lloyd Distinguished Service Professor and President Emeritus of the University of Chicago.

**Bigelow Teaching Fellows**

Each year six Bigelow Teaching Fellows and Lecturers are appointed to design and conduct the legal research and writing program for first-year students. The Fellows for 1982-83 are as follows:

**Joseph Biancalana** is a graduate of Harvard Law School, where he received his J.D. degree cum laude in 1978. He also holds a B.A. from Lake Forest College (1971) and an M.A. from Harvard University (1972). Since 1978 he has practiced with the firm of Herrick and Smith in Boston and has pursued his interest in English legal history through reading and research. He is a member of Phi Beta Kappa.

**Michael G. Collins** attended Pomona College (B.A. summa cum laude, 1972) and did graduate work in Greek and Latin at Stanford University (M.A., 1974). He received his J.D. from Harvard Law School in 1978. While at Harvard, he worked on the *Harvard Civil Rights—Civil Liberties Law Review* and the *Harvard Law Record*, and received the Best Brief Award in the First Year Ames Moot Court Competition. He has worked with Sheppard, Mullin, Richter, and Hampton in Los Angeles, and since 1979 has been engaged in private civil rights practice in New Orleans, working primarily on employment discrimination matters. Mr. Collins has a special interest in legal history.

During the past year Rebecca S. Dresser clerked for the Honorable James E. Doyle, U.S. District Court for the Western District of Wisconsin. A graduate of Indiana University (A.B., 1973; M.S., 1975), she received her J.D. from Harvard Law School in 1979. Ms. Dresser is especially interested in mental health law and has worked in that area for the Wisconsin Department of Health and Social Services and the University of Wisconsin Health Sciences Center. She is a member of Phi Beta Kappa.

**Martin A. Hall** is a 1981 graduate of Cambridge University (Trinity Hall), where his work earned him first class honors in law and several academic prizes. His special interests are in corporation law, conflict of laws, and legal history.

**George Leggatt** studied philosophy at King's College, Cambridge, and received his B.A. in 1979 after gaining first class honors in each part of the philosophy tripos. At Cambridge he also captained his college at crew. Mr. Leggatt spent the 1979-80 academic year on a Harkness Fellowship at Harvard, where he studied the philosophy of law and acted as a tutor and teaching assistant. In 1981 he received a Diploma in Law with distinction from the City University in London, and during 1981-82 he attended the Inns of Court School of Law. He is a member of the Middle Temple.

**Shobita Misra** attended school in New Delhi. She received her B.A. from Smith College cum laude in 1978 and her B.A. in law (with honors) from Cambridge University in 1980. Since then she has been a lecturer in law at the University of Lancaster, where she teaches contract, tort, and constitutional law. Ms. Misra has worked in Brussels, in the General Secretariat of the Commission of the European Economic Community and as an associate with Cleary, Gottlieb, Steen, and Hamilton.

**FACULTY NOTES**

Professor Dennis Carlton has published "Planning and Market Structure," in *The Economics of Informa-"
tion and Uncertainty, edited by J. McCall and published by the University of Chicago Press this year.

David P. Currie, the Harry N. Wyatt Professor of Law, spoke on "Bankruptcy Judges and the Independent Judiciary," as part of the Tepoel Lecture Series at the Creighton University School of Law.

Professor Richard H. Helmholz gave two lectures in England this summer. He spoke to the annual general meeting of the Records Branch of the Wiltshire Archaeological Society at Stockton Manor, Wiltshire, and addressed the annual meeting of the Selden Society, at Lincoln’s Inn in London, on “Canon Law and English Common Law.”

In a paper delivered to the faculty of the Cornell Law School, Associate Professor Dennis Hutchinson explored aspects of Supreme Court Justice William O. Douglas’s life disclosed by the recent opening of some of his correspondence. Mr. Hutchinson served as one of Justice Douglas’s last law clerks.

Assistant Professor Diane Wood Hutchinson in June addressed a committee on international law of the Chicago Bar Association on the topic of bilateral investment treaties.


John Langbein, Max Pam Professor of Law, and Professor Helmholz attended a conference of legal historians held last March, in Bad Homburg, West Germany, to further collaborative work among continental and Anglo-American legal historians. Mr. Langbein also presented a paper at a conference held in June in Regensburg, West Germany, in celebration of the four hundred fiftieth anniversary of the promulgation of the Constitutio Criminalis Carolina, the imperial German criminal procedure ordinance of 1532. Mr. Langbein has published a paper, with Lawrence Waggoner of the University of Michigan Law School, entitled "Reformation of Wills on the Ground of Mistake: Change of Direction in American Law" (130 U. PENNSYLVANIA L. R. 521-90 [1982]).

Norval Morris, the Julius Kreeger Professor of Law, received the 1982 Bruce Smith Award for Outstanding Contributions to Criminal Justice, presented by the Academy of Criminal Justice. His book Madness and the Criminal Law is being published by the University of Chicago Press this fall.

Judge Richard Posner, Senior Lecturer in Law, was elected in May as a Fellow of the American Academy of Arts and Sciences. With his election, there are now nine Law School faculty members who are AAAS Fellows.

Adolph Sprudzs, Foreign Law Librarian and Lecturer in Legal Bibliography, has continued his duties as secretary of the International Association of Law Libraries (1980-83).
and as associate editor in charge of book reviews for the International Journal of Law Libraries, now the International Journal of Legal Information. In addition to a number of book reviews in the IJLI, his recent publications include: Current Treaty Index 1982: A Cumulative Index to the United States Single Treaties and Agreements, TIAS 9605-10000 (Hein, 1982), with Igor I. Kavass; and Release 1982 No. 1 for the UST Cumulative Indexing Service, 1976-1982 (Hein, 1978), also with Igor I. Kavass. At the request of the University of Iowa Law Library, Mr. Sprudzs surveyed their international, comparative, and foreign law collections in July and made recommendations for their future development.

Last spring Assistant Professor Cass Sunstein testified before the Judiciary Committee of the United States Senate on proposed changes in venue in administrative law cases. He also testified in support of the Equal Rights Amendment before the Committee of the Whole of the Illinois House of Representatives. His recent publications include: “Section 1983 and the Private Enforcement of Federal Law” (49 U. Chi. L. Rev. 394 [1982]); with Richard Stewart, “Public Programs and Private Rights” (95 Harv. L. Rev. 1193 [1982]); and “Cost-Benefit Analysis and the Separation of Powers,” (23 Ariz. L. Rev. 1267 [1982]).

Professor James White has recently published “Law as Language: Reading Law and Reading Literature,” which appeared in a symposium of interpretation in the Texas Law Review (September 1982). His article “The Invisible Discourse of the Law: Legal Literacy and General Education,” Michigan Quarterly Review (Summer 1982), is a version of a talk on legal literacy given at a conference in Ann Arbor, in the summer of 1981, organized by the University of Michigan English Composition Board; this article will also appear in two books. “Search and Seizure: Physical Evidence” will be published in the forthcoming Encyclopedia of Crime and Justice, edited by Sanford Kadish et al. This past spring Mr. White was a commentator on a set of papers at a session on Indian law at the annual meeting of the Asian Association of America. During 1980-82 he has served on the Commission on Graduate Education of the University of Chicago, and he is a member of the Council of the University Senate and of the Committee of the Council. He has also recently been appointed associate editor of Ethics: An International Journal of Social, Political, and Legal Philosophy.

On invitation from the Second Federal Judicial Circuit, Professor Emeritus Hans Zeisel addressed their annual fall conference on some emerging aspects of jury trials, and on his book, The Limits of Law Enforcement, about to be published by the University of Chicago Press. Inter­rupting his not very retired retirement, during the spring quarter he gave a well-attended course at the Law School on social science research in litigation.

LAW SCHOOL NEWS

Urban Conference

Sponsored jointly by the University of Chicago’s Committee on Public Policy Studies and the Law School, a conference entitled “The Future of Our City” was held at the Law School on June 18 and 19. Economists, political scientists, lawyers, planners, and sociologists discussed the impact of local and federal poli-
cies toward housing and neighborhoods, crime, economic development, transportation, urban finance, and racial change. Dean Gerhard Casper and Professor Edmund Kitch both chaired discussions, on how and why American cities are changing and on what urban policies make a difference, respectively. Professor Franklin Zimring was a discussant of papers concerned with urban crime and racial change.

The conference was made possible by a grant from the Chicago law firm of Mayer, Brown, and Platt in celebration of its centennial.

Law School Tuition

The University has set Law School tuition for 1982-83 at $8,550. In comparison with tuition levels at other law schools, which also show substantial increases, the Law School's tuition remains among the highest in the country. It is only partially offset by an increase in the University's unrestricted scholarship support for law students. In spite of the tuition increases, however, tuition revenue covers only about 56% of the costs of operating the Law School.

Two factors have been suggested to explain why the increase exceeds the presently predicted rate of inflation. First, University and Law School income from unrestricted sources and endowment is not increasing; from certain sources, such as government, it is in fact decreasing. Second, the general inflation index understates the direct impact of inflation on the University because of disproportionate outlays for items such as energy and books, which continue to show price increases far exceeding those of other goods and services.

D. Francis Buston Prize

The D. Francis Buston Prize for 1982 was awarded to David P. Currie, the Harry N. Wyatt Professor of Law, for his book Air Pollution—Federal Law and Analysis (Callaghan, 1981). The prize is made possible by the D. Francis Buston Educational Fund for the Law School and is awarded for scholarly and scientific contributions to the improvement of government.

New Director for Law and Economics

William M. Landes, the Clifton R. Musser Professor of Law, has been named the new Director of the Law and Economics Program, succeeding Edmund Kitch, who is now at the University of Virginia Law School. The Law and Economics Program was first headed by economist Ronald Coase, followed by Kenneth Dam and then Mr. Kitch.

Clinic Wins Supreme Court Case

Last winter the Mandel Legal Aid Clinic received notice from Washington that it had won a case before the Supreme Court. In Logan v. Zimmerman Brush Co., No. 80-5950, 50 U.S.L.W. 4247 (2/24/82), the Court reversed and remanded a decision of the Illinois Supreme Court from which the Clinic had appealed. The case arose from a charge filed with the Illinois Fair Employment Practices Commission for alleged employment discrimination because of a physical handicap.

Associate Professor and Clinic Director Gary Palm presented the oral argument when the Court heard the case last fall. Staff Attorney and Clinical Fellow Mark Weber was also an attorney of record before the Court. Students in the Clinic who worked on the case were Gordon Atkinson '81, Stephen Fedo '81, Maureen Mosh '82, and Philip Rosenblatt '82.

Soia Mentschikoff Retires as Miami Dean

Former Law School professor Soia Mentschikoff retired this year as dean of the University of Miami Law School. She has been widely praised for her leadership of that law school during her eight-year tenure as dean. Ms. Mentschikoff joined the faculty of the Law School in 1951. She became a full professor in 1962 and taught at the Law School until 1974, when she accepted the Miami appointment.

Brilmayer and Kitch Leave the Law School

Professor R. Lea Brilmayer and Professor Edmund Kitch have resigned from the Law School faculty. Ms. Brilmayer accepted a position at Yale Law School. She expressed regret at leaving Chicago, where she had been a member of the faculty since 1979 and where she feels she learned a great deal about teaching.

Mr. Kitch is now at the University of Virginia Law School. Asked for impressions of his 16 years at Chicago, he expressed his respect for both faculty and students, and for the “atmosphere of professional rigor that pervades the institution.”
Income Tax Help

Last February, March, and April, Law School students were part of the Volunteer Income Tax Assistance (VITA) program. Every Saturday for nine weeks, at the Hyde Park Coop, law student volunteers trained by the Internal Revenue Service offered free help with income tax preparation. The VITA program was designed to aid taxpayers who cannot afford professional tax assistance. It was sponsored by the American Bar Association Law Student Division, the Law Student Association, and the Internal Revenue Service.

Moot Court

The winners of the 1981-82 Hinton Moot Court Competition were Thomas Ogden '82 and David Turcetisky '82. In addition, the Karl Llewellyn Memorial Cup for excellence in brief writing and oral argument was awarded to Thomas Kosco '83 and James Santelle '83. The final round of the competition, which was held on May 6, was judged by Justice Byron White of the Supreme Court, Judge Ruth Bader Ginsberg of the U.S. Court of Appeals for the District of Columbia, and Judge Richard Cudahy of the U.S. Court of Appeals for the Seventh Circuit.

Honors and Awards

The following members of the class of 1982 were inducted into the Order of the Coif: Marion Adler, Lyle Anderson, Jonathan Baum, Locke Bowman III, Albert Cacozza, Jr., Robert Dahlquist, Alan Ellenby, William Hardin, Michael Herz, Rodrigo Howard, Richard Kapnick, Leo Katz, Steven Koch, Lawrence Moss, Thomas Ogden, Thomas Scorza, and William Weissinger. In addition to these graduates, the following students received their degrees with honors: Ricky Balthrop, Steven Baspin, Debra Cafaro, Catherine Epstein, Michael Grossman, Howard Heitner, Julie Kaptur, Michael Schmidt-Lackner, Scott Lederman, Patrick Maloney, Cindy Schipani, Philip Stoffregen, and Paul Strella.

David Baker '82 and Howard Heitner '82 received the Ann Barber Outstanding Service Award, for the third-year student who has made a particularly helpful contribution to the quality of life at the Law School. The Joseph Henry Beale Prize, for outstanding work in the first-year legal research and writing program, was awarded to the following members of the class of 1984: Willis Buck, Jr., Marcia Connolly, Larry Kramer, Richard Levy, Joel Shapiro, and Lawrence Wieman. Charles Weisselberg '82 received the Edwin F. Mandel Award, to the graduate who has contributed most to the Law School's clinical education program. The Isaiah S. Dorfman Prize, for outstanding work in labor law, was awarded to Richard Kapnick '82; and the George Gleason Bogert Trust Prize, for the best academic performance in the course in which trusts is taught, was awarded to Heidi Massa '83.

Clinic Officers

The Mandel Legal Aid Clinic has selected the following student officers for the 1982-83 academic year: Terri Arbit, John MacDowell, Patricia McMillen, and Binny Miller. They are all members of the class of 1983.

Law Review Board

Matthew Slater was named editor-in-chief of the Law Review for 1982-83. The other members of the managing board are: James Finberg, executive editor; Sheri Engelken and Michael Lazewitz, editors; Michael Brody, Gary Friedman, Lawrence Knowles, Laura Schnell, and Todd Young, comment editors; and Michael Lindsay, managing and book review editor. All are third-year students.

Clerkships

Thirty-one Law School graduates have clerkships for 1982-83. Their names and the judges for whom they are clerking are as follows:

United States Supreme Court:
  David Jaffe '81 (Justice William Rehnquist)  
  Charles Treat '80 (Justice William Brennan, Jr.)

United States Court of Claims
  Jeffrey Bialos '82 (Chief Judge Daniel Friedman)

United States Tax Court
  Philip Stoffregen '82 (Judge Bruce Forrester)

United States Courts of Appeals
  Albert Cacozza, Jr. '82 (Judge Ruth Bader Ginsberg, D.C. Cir.)  
  Debra Cafaro '82 (Judge James Phillips, 4th Cir.)
  Charles Curtis '82 (Judge David Bazelon, D.C. Cir.)  
  Catherine Epstein '82 (Judge Luther Swygert, 7th Cir.)
  Mark Gergen '82 (Chief Judge Harrison Winter, 4th Cir.)  
  William Hardin '82 (Judge Thomas Gee, 5th Cir.)
  Michael Herz '82 (Judge Levin Campbell, 1st Cir.)
  Rodrigo Howard '82 (Chief Judge Frank Coffin, 1st Cir.)
  Leo Katz '82 (Judge Anthony Kennedy, 9th Cir.)
  Steven Koch '82 (Judge Richard Cudahy, 7th Cir.)
  George Leone '82 (Judge James Hunter III, 3rd Cir.)
  Gail Rubin '82 (Chief Judge Walter Cummings, 7th Cir.)
  James Talent '81 (Judge Richard Posner, 7th Cir.)

United States District Courts
  Jonathan Baum '82 (Judge Bernard Decker, N.D. Ill.)
  Locke Bowman '82 (Judge Hubert Will, N.D. Ill.)
  Kim Fenton '82 (Judge David Porter, S.D. Ohio)
  Michael Gerhardt '82 (Chief Judge Robert McRae, Jr., W.D. Tenn.)
  Alan Gussin '82 (Judge Susan Getzendanner, N.D. Ill.)
  Harold Kahn '82 (Judge Joseph Young, D. Md.)
  Thomas Ogden '82 (Judge Abraham Soffer, S.D. N.Y.)
  Jeffrey Pech '82 (Judge Bernard Decker, N.D. Ill.)
  Thomas Scorza '82 (Judge Milton Shadar, N.D. Ill.)
  Robert Stone '82 (Judge Thomas McMillen, N.D. Ill.)
  Neil Williams '82 (Judge George Leighton, N.D. Ill.)

State Supreme Courts
  Richard Kapnick '82 (Justice Seymour Simon, Ill.)
  Cindy Schipani '82 (Justice Charles Levin, Mich.)

State Court of Appeals
  Stephanie Striffler '82 (Judge William Richardson, Ore.)
Annual Dinner

The National Alumni Association of the Law School held its annual dinner on May 6 at the Radisson Hotel in Chicago. Six hundred people attended. Bernard J. Nussbaum, president of the National Alumni Association, presided over the program, which honored the class of 1932, on the fiftieth anniversary of their graduation from the Law School, and the winners of the 1982 Hinton Moot Court Competition. The Hon. Byron R. White, associate justice of the Supreme Court, and his wife were special guests. George J. Stigler, Charles R. Walgreen Distinguished Service Professor Emeritus and director of the University's Center for the Study of the Economy and the State, spoke to the gathering on "Law and Economics: The Platonic Relation."

Reunions


The class of 1932 celebrated its fiftieth reunion with a dinner on Friday evening, May 7, at the Tavern Club. The class of 1942 held its reunion dinner that evening at the Chicago Yacht Club, and members of the class of 1952 attended a cocktail reception at the Ritz Carlton.

On Saturday morning, May 8, alumni refreshed their memories with an architectural walking tour of the University campus. Dean Gerhard Casper hosted a luncheon for Law School faculty and all classes celebrating reunions, and the luncheon was followed by a panel discussion among former deans Edward Levi '37, Norval Morris, and Phil Neal, and Dean Casper.

The classes of 1952, 1962, and 1972 attended reunion dinners on Saturday evening, at the Ritz Carlton, the Mid America Club, and the Goodman Theater, respectively.

California Receptions

Alumni in the Los Angeles area visited with Dean Gerhard Casper at a cocktail party at the Hillerest Country Club in Los Angeles on June 2. Judge Benjamin Landis '30, of the Superior Court of Los Angeles County, arranged the gathering, which was attended by 40 guests.

On August 9, the Law School hosted a reception for alumni in connection with the annual meeting of the American Bar Association in San Francisco. About 175 graduates attended the cocktail party at the Pacific Plaza, where they spoke with Professor Antonin Scalia, Dean Casper, and Assistant Dean Holly Davis.
Loop Luncheons
The Chicago chapter of the Law School’s National Alumni Association has continued to sponsor the Loop Luncheon Series for graduates in the Chicago area. At the March luncheon Norval Morris, Julius Kreeger Professor of Law, spoke on “Madness and the Criminal Law,” and in April Dean Gerhard Casper gave a talk entitled “The United States and Europe: Can and Should the Alliance Be Saved?” Harvey Grossman, legal director of the Chicago chapter of the American Civil Liberties Union, spoke in May on civil liberties in the Reagan administration.

The Loop Luncheon committee has been chaired by James Zacharias ’35.

Chicago Officers
The Chicago chapter of the Alumni Association elected the following officers in 1982: James Zacharias ’35, president; Michael Schneiderman ’65, vice-president; Johnnine Brown Hazard ’77, secretary-treasurer and chairman of the Moot Court committee; and Alfred Teton ’36, chairman of the Loop Luncheon committee.

German Reunion
In 1950, a group of young German lawyers spent several months at the Law School for training in American law. While not graduates, the group have viewed themselves as alumni and have actively supported the Law School, and in 1975 they held an alumni meeting in Munich to honor Professor Max Rheinstein, who headed the 1950 session. This year, on June 19, the group held another gathering in Wiesbaden. It was arranged by E. K. Pakuscher, chief justice of the German Patent Court. At the request of Dean Gerhard Casper, Walter Wilhelm, director of the Max Planck Institute for European Legal History in Frankfurt, gave a report on the Law School. Mr. Wilhelm was a Visiting Professor of Law in the fall quarter of 1980.

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Class Notes Section – REDACTED

for issues of privacy
Judge Parker Gets Alumni Award

At its annual dinner in May, the University of Chicago Alumni Association presented the Hon. Barrington D. Parker, J.D. '46, with its Professional Achievement Award for attainments in his vocational field. Judge Parker is a judge of the U.S. District Court for the District of Columbia. He discusses his role as presiding judge in the trial of John W. Hinckley, Jr., on page 2 of this issue.

'24 Margaret Perkins Camp died at the age of 84 in New Britain, Connecticut, where she had practiced law with her husband from 1925 until his death in 1966 and then less actively until the mid-1970s. She was a member of the firm of Camp, Williams, and Richardson.

David J. Maddox (X '24) will celebrate his ninety-eighth birthday this year and still practices law five days a week in Chicago.

'29 Fred H. Mandel writes that his daughter, Elizabeth Mandel, has been admitted to the bar of California.

'30 In 1980 Allan M. Wolf and his wife, Naomi, celebrated their fiftieth anniversary in their Lincolnwood, Illinois, home, at a surprise party hosted by their children and grandchildren.

'32 Herbert B. Fried has been named by the Chicago Bar Association as Director of Legal Services, to set up and administer a volunteer program to supplement the legal services now available to the indigent in Chicago. This is Mr. Fried's fourth career. He practiced law with his father until 1952, when he joined the Charles Levy Circulation Company as treasurer. He later became president of that company. Most recently, he served for six years as Director of Placement at the Law School.

Leonard Gesas, Louis W. Levit '46, and Gerald F. Mintz '60 served as panelists at a seminar on bankruptcy and reorganization held in March by the John Marshall Law School. Allen Kamp '69, a professor of law at that school, moderated the discussion.

'38 Marcus Cohn has become a member of the National Council on the Humanities. In 1981, the American Jewish Committee gave him its annual Human Relations Award.

'Sherman P. Corwin was unanimously elected as president of the Chicago Estate Planning Council at their recent annual meeting. Mr. Corwin has been active in the council for a number of years and has served as its secretary, treasurer, and vice president.

John R. Van de Water has been appointed by President Reagan as chairman of the National Labor Relations Board. He and his wife, Helen, were in Cairo, while touring the Middle East, when the appointment was made, and he took the oath of office at the American Embassy there. He and his wife now live in Fairfax, Virginia.

'46 President Reagan has named Jewel Lafontant to the President's Commission on Executive Exchange and the President's Private Sector Survey on Cost Control. Ms. Lafontant is co-chairman of the commission's task force on the Department of Justice.
received a J.

versity Law at the School of Law of the University of North Carolina at Chapel Hill. Judge Mikva’s topic was “How Well Does Congress Support and Defend the Constitution?”

Ray E. Poplett has been accepted as a member of the Attorneys’ Title Guaranty Fund, Inc., the Illinois lawyers’ organization for guaranteeing titles to real estate.

Louis J. Cohn was the principal speaker at the National Client Counseling Competition, sponsored by the Law Student Division of the American Bar Association and held last spring at the McGeorge School of Law in Sacramento. The topic of the conference was “The Initial Interview: Dealing with the Distraught Client.”

Harry T. Allan has been appointed acting vice chancellor for academic affairs and provost at the University of Massachusetts in Amherst. His regular post is dean of the School of Business Administration at that institution.

James O’Bryant, Jr., died last August in Chicago, where he lived with his wife Bonnie.

Sanford N. Katz was elected president of the International Society on Family Law at its world conference held at Harvard Law School in June.

Gerald F. Munitz and Richard Harris ’62 presented talks in a program entitled “Handling Real Estate Developments in Trouble,” sponsored by the Illinois Institute for Continuing Legal Education. The conference was held in Chicago, but the audio portion was made available to practicing lawyers throughout Illinois by LAW/NET, which provides a network of special two-way conference phone units.

James C. Conner has become a member of the firm of Bowman, Conner, Touhey, and Thornton, in Washington, D.C.

Donald E. Egland continues as a member of the Board of Managers of the Chicago Bar Association for another year.

Mary Ann Glendon has been elected to the Executive Council of the International Society on Family Law. Her book *The New Family and the New Property* was published by Butterworth last year.

Charlotte Adelman was installed as second vice president of the Women’s Bar Association of Illinois, at its annual dinner meeting in June.

Richard Harris’s book *Construction and Development Financing* was recently published by Warren, Gorham, and Lamont. Mr. Harris is a partner in the Chicago firm of Sonnenschein, Carlin, Nath, and Rosenthal.

Harold S. Russell has been appointed associate general counsel by the FMC Corporation, to head the company’s Philadelphia legal department. Mr. Russell has been counsel with FMC, based in Chicago, since 1976.

Joel Yohalem has been appointed deputy general counsel of the Western Union Telegraph Company. He lives in Bethesda, Maryland, with his wife and two children.

David L. Crabb has become Associate Director of Gift and Estate Planning at the University of Chicago. He worked at the University from 1966 to 1972 and most recently was director of the deferred giving program at Hamilton College.

Rex E. Lee, solicitor general of the United States, was a speaker at the 1982 annual meeting of the American Law Institute, held in Philadelphia in May.

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**The Day Is Short**

*by Morris B. Abram ’40*

The Day Is Short, an autobiography by Morris B. Abram ’40, was published this summer by Harcourt Brace Jovanovich and has been widely reviewed. In his book Mr. Abram focuses on his successful fight against cancer, but within this framework he recalls his life as a Jewish Southerner, political activist, and defender of human rights.

Abram grew up in Fitzgerald, Georgia, where he was born in 1918. He graduated from the University of Georgia in 1938 and received his J.D. from the University of Chicago in 1940. He attended Oxford University as a Rhodes Scholar and received a B.A. in 1948 and a M.A. in 1953.

After working on the prosecutor’s staff at the Nuremburg trials, he settled in Atlanta to practice law. There he soon brought suit to challenge Georgia’s county-unit electoral-vote system, which worked to disenfranchise black people. Finally in 1962 he argued the case before the Supreme Court in association with Robert Kennedy, and the next year the Court overturned the unit rule and affirmed “one voter-one vote” as a constitutional principle.

Abram has served as U.S. representative to the United Nations Commission on Human Rights, president of the American Jewish Committee, chairman of the United Negro College Fund, and chairman of the Moreland Act Commission on Nursing Homes. He was president of Brandeis University from 1968 to 1970, and is now a partner in the New York firm of Paul, Weiss, Rifkind, Wharton, and Garrison. He is also chairman of the President’s Commission for the Study of Ethical Problems in Medicine.
Ronald B. Grais is a partner in the Chicago firm of Neiman and Grais, which has acquired the century-old former home of DeMet's Candy Company and is renovating it as office space. Mr. Grais's firm will occupy most of one floor and lease the rest to other lawyers and retailers.

H. Richard Juhnke has been promoted to general solicitor of the Western Union Telegraph Company, with responsibility for all functions of the Regulatory Law Division. Mr. Juhnke, his wife, and their three children live in Arlington, Virginia.

Aviva Tutorian has been named to represent the Chicago Council of Lawyers on an advisory committee formed by Judge Jorzak, presiding judge of the Domestic Relations Division of the Cook County Circuit Court.

Steven A. Grossman is now engaged in the general practice of law in Chicago. Frederick L. Miller joined the Chicago Pneumatic Tool Company last December and has been elected assistant secretary.

Marc P. Seidler has become a partner in the Chicago firm of Rudnick and Wolfe, in their Northbrook, Illinois, office.

Peter A. Levy has been made a partner in the firm of Rudnick and Wolfe, not Sidley and Austin as stated in the Fall 1981 issue of this magazine. He practices in the firm's Northbrook, Illinois, office.

The Chicago Council of Lawyers has appointed Sharon Baldwin to be council liaison with the Chicago Lawyers' Committee and the Cook County Legal Assistance Foundation pro bono advocates project.

Edward H. Jacobs has recently opened a private law practice in St. Croix, U.S. Virgin Islands. He was formerly an assistant attorney general in the Virgin Islands Department of Law.

Steven Fiffer, Class Secretary, 2512 N. Burling Street, Chicago, IL 60614.

M. Fred Gants observed his Eighth Annual Dodger Day at Wrigley Field by having his picture taken.

J. Kent Mathewson '82 and Joseph Mathewson '76