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Celebrating Brown

Geoffrey R. Stone

Spring 1984 marked the thirtieth anniversary of the decision of the United States Supreme Court in Brown v. Board of Education. It is difficult to conceive that only thirty years ago blatant, open, and legally enforced racism, with its degrading humiliations, was a fact of life in more than one-third of our nation.

In Brown, the Court overturned almost sixty years of precedent and held that state-mandated racial segregation violates the equal protection clause of the Fourteenth Amendment.

Because thirty years is by tradition a generation, now is an appropriate time to reflect on what was a dramatic turning point in American education and American society.

The roots of Brown run deep. They reach back to the first African brought to the new world in chains and to two hundred years of black slavery, to the Civil War and to emancipation, to Reconstruction and to Retreat.

The essential predicate of slavery in America was the assumption of white superiority and black subordination. The rule of the master encompassed the most intimate phases of the slave’s life and was absolute, personal, and arbitrary. The long experience of slavery left its mark on the posterity of both slave and master.

With emancipation, the status of the newly freed slaves in the post-

subordination. The rule of the master encompassed the most intimate phases of the slave’s life and was absolute, personal, and arbitrary. The long experience of slavery left its mark on the posterity of both slave and master.

With emancipation, the status of the newly freed slaves in the post-

Civil War South was not at once apparent. Gradually, however, the place of blacks evolved under the influence of economic and political conflicts among whites—conflicts that were resolved largely at the expense of blacks.

In the 1880s, for example, Southern conservatives, attempting to regain the leadership they had lost to a union of black and poor white populists and to divide poor whites from blacks, raised the specter of Negro Domination and the shibboleth of White Supremacy.

The conservatives launched an intensive propaganda campaign of negrophobia and race chauvinism. It was an era of violence, lynchings, and race riots. In this climate, segregation took hold as a fully developed apparatus of white supremacy.

By the late nineteenth and early twentieth centuries, Jim Crow was rampant. Up and down the byways and avenues of Southern life appeared the signs: “Whites Only” and “Colored.” A South Carolina law prohibited textile workers of different races from working together in the same room. A Louisiana law required separate entrances, exits, and ticket windows, at least twenty-five feet apart, at all circuses and tent shows. A Florida law required that textbooks used by black schoolchildren be kept separate from those used by white children, even while in storage.

Jim Crow extended to churches and schools; to housing and jobs; to eating, drinking, and virtually all forms of public transportation. It extended to sports, hospitals, orphanages, prisons, asylums, funeral homes, and even cemeteries. The law, in effect, created two worlds—one white, one black. And the wall of segregation was so formidable, so impenetrable, that the entire

“...legally enforced racism...was a fact of life in more than one-third of the nation.”

Mr. Stone is Harry Kalven, Jr., Professor of Law. He received his J.D. from the Law School in 1971. This speech was given at the University Convocation in June 1984.
weight of the American constitutional system had to be brought to bear to bring it down.

In its first encounter with the issue, however, the Supreme Court sustained the constitutionality of state-mandated segregation. In *Plessy v. Ferguson*, decided in 1896, the Court considered a Louisiana statute requiring railroad companies to provide separate but equal accommodations for "the white and colored races."

Plessy, who was a "one-eighth African blood," was prosecuted for attempting to sit in a "Whites Only" coach. Interestingly, but perhaps not surprisingly in light of the times, Plessy's primary claim was not that the Louisiana law was unfair to blacks, but that he was in fact white, and that by mischaracterizing him as "colored" the state had deprived him of his constitutional right to the reputation and status "of belonging to the dominant race."

Passing that issue, the Court embraced the prevailing moral and intellectual assumptions of the time and upheld the Louisiana statute as a "reasonable regulation." The Court explained that in "the nature of things" the Fourteenth Amendment "could not have been intended" to enforce social equality or "a commingling of the two races." The Court denied "that the enforced separation of the two races stamps the colored race with a badge of inferiority," and maintained that if such stigma exists "it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it."

In the years after *Plessy*, the Court consistently reaffirmed the constitutionality of state-mandated segregation. Beginning in the 1930s, however, the NAACP launched a carefully orchestrated and vigorous attack on separate but equal. This attack culminated in *Brown*—a direct frontal assault on racial segregation.

"It is fashionable these days to dismiss *Brown* as a failure. . . . I cannot agree."

Not surprisingly, *Brown* was the center of intense and anxious public scrutiny. When the Court did not reach a decision in the spring of 1953, the case was scheduled for reargument the following fall. Although the Court did not decide the case in 1953, we now know where the Justices stood. At that time, a majority inclined to the view that state-mandated segregation in the public schools was not unconstitutional.

It is worthy of note, and of pride, that two members of the University of Chicago faculty, Robert Ming of the Law School and John Hope Franklin of the History Department, both black, actively assisted in the crafting of the critical NAACP briefs in that summer of 1953.

It is also noteworthy that in that same summer Chief Justice Vinson died and was replaced by Earl Warren. This turn of events led Justice Frankfurter, a staunch opponent of segregation, to declare: "This is the first indication I have ever had that there is a God."

The following spring, the Court handed down its decision in *Brown*. Writing for a unanimous Court, Chief Justice Warren declared that "to separate [black children] from
others ... solely because of their race generates a feeling of inferiority as to their status ... that may affect their hearts and minds in a way unlikely ever to be undone.” “In the field of public education,” Warren concluded, “the doctrine of ‘separate but equal’ has no place.”

Brown was only the beginning. In the years after the decision, the Court invalidated racial segregation in public parks, golf courses, airports, bus terminals, courtrooms, and other public facilities. The Court found unconstitutional discrimination in the listing of candidates for public office by race, in the custom of addressing black witnesses by their first names, and in laws making marriage and sexual relations between blacks and whites a crime. Brown buried Jim Crow.

It is fashionable these days to dismiss Brown as a failure. Blacks, it is said, remain economically, politically, and educationally disadvantaged. Brown, it is said, has changed little. I cannot agree. Brown was a triumph—a genuine cause for celebration.

Brown was a triumph for the Justices of the United States Supreme Court, whose vision and understanding enabled them fundamentally to recast our constitutional law. It was a triumph for the NAACP litigators, whose perseverance and ingenuity enabled them to reform our society while remaining true to our legal and constitutional order. It was a triumph for those Southern federal judges whose integrity and dedication enabled them to enforce the dictates of Brown in the face of ostracism, personal abuse, and even threats of violence. And it was a triumph for those black schoolchildren whose courage and simple dignity enabled them to walk each day into the vortex of often violent school desegregation to assert their constitutional right to “equal protection of the laws.”

Perhaps most of all, however, Brown was a triumph for our society. For although Brown did not end racism, it did put a stop to constitutionally sanctioned, government-sponsored racism.

Moreover, and perhaps equally important, Brown recast the style, the spirit, and the substance of race relations in America. It ignited the movement for civil rights. It opened the door to Little Rock and to Selma, to Dr. King and to Justice Marshall. It triggered a social and political revolution. Blacks are no longer supplicants, but full citizens, entitled to equal treatment as a matter of right. Brown marks a fundamental divide in American life. It is, indeed, a cause for celebration.

But it is not a panacea. The harsh reality is that we live in a society 

“The color-blind society—the racially equal society—remains a distant dream. We live still with the legacy of slavery.”
deeply scarred by racism. Despite Brown, blacks remain politically, economically, and especially educationally disadvantaged. The vast majority of black children still attend predominantly black schools. The color-blind society—the racially equal society—remains a distant dream. We live still with the legacy of slavery. There is much to be done.

There is another aspect of Brown, and it should not go unnoticed. At first glance, it might seem that the most astonishing feature of Brown was the Court's acceptance in 1896 of segregation as "equal." But in 1896 this seemed sensible. As the Court observed in Plessy, such segregation was, after all, "in the nature of things."

What is astonishing about Brown was the Court's willingness in 1954 to reconsider and to reject the received wisdom. As the division in the Court in the summer of 1953 suggests, Brown was not an easy case. Plessy did not seem as obviously wrong then as it does today. The Court, to reach the result it did, had to challenge the first principles of its predecessors and overturn almost sixty years of authority.

"Brown recast the style, the spirit, and the substance of race relations in America."

A Court, to succeed, must constantly challenge "the nature of things." A great University, like a successful Court, must dedicate itself to the rigorous, open-minded, unyielding search for truth. If you have learned anything here, you have learned to ask hard questions. It is not enough to examine the premises, beliefs, and assumptions of an earlier time and find them wanting. It is too easy to dismiss those who thought that the earth was flat, that its resources were boundless, or that separate could ever be equal.

You must remember that you, too, hold beliefs that your children or your children's children will rightly regard as naive, foolish, or perhaps even obscene. You must be prepared to reform your world, just as the Justices in Brown were willing to reform theirs. You, too, must challenge "the nature of things."

As you leave this University and make your way in the world, I wish you courage, integrity, and, perhaps above all, I wish you doubt. May you prosper.
What Was the Skokie Case All About? An Advocate Looks Back

David Goldberger

Nearly six years have passed since I served as an ACLU attorney representing a small band of self-styled Nazis who called themselves the National Socialist Party of America (NSPA). They wished to hold a public assembly on the sidewalk in front of the village hall in Skokie, Illinois to protest the denial of a permit to assemble in another forum. However, Skokie contains a substantial number of Jewish residents, some of whom survived Nazi concentration camps. As a result of their adamant opposition to the demonstration, Skokie officials made every effort to find a legal means to bar the demonstration. The controversy became extremely tense when a number of people, within and without Skokie, organized efforts to block the demonstration with violence, if legal means failed.

The history of the case in the courts is fairly well known. A state trial judge issued an injunction barring the demonstration unless NSPA demonstrators appeared without their Nazi-style uniforms and swastika emblems. The Illinois Supreme Court ruled the injunction was a prior restraint and therefore violated the First Amendment. In the meantime, Skokie officials passed group libel and permit ordinances that would make it impossible for the would-be demonstrators to get a permit to assemble. The Court of Appeals for the Seventh Circuit reviewed a challenge to the constitutionality of the ordinances and concluded that the ordinances were inconsistent with the precepts of the First Amendment. Subsequent to the court rulings, officials of the Community Relations Service of the Justice Department held meetings with the key participants in the controversy and, after the meetings, the NSPA moved its demonstration to the Federal Plaza in downtown Chicago. There the demonstration took place in the presence of approximately 2000 hostile onlookers restrained by Chicago Police.

In retrospect, the legal aspects of the controversy look to me very much as they did at the time it occurred. It represented another familiar clash over the degree to which the First Amendment ought to protect the right of political pariahs to hold demonstrations in public forums in spite of the objections of a hostile citizenry. Many opponents of the Skokie demonstration, including some extremely thoughtful constitutional scholars, saw the controversy very differently. They argued that the Skokie case raised the unique question of whether the government had power to suppress political expression if it could be shown that the expression...
At the time the controversy began, I thought the intensity of the rage among opponents of the demonstration was peculiar to the circumstances. I assumed that the rage came from Skokie's close link to the horrors of the Holocaust. After all, the planned demonstration would have been the first in which American Jewish survivors of the Holocaust would be confronted directly in a dominantly Jewish residential community by the symbols of Nazi genocidal policies.

Now, in retrospect, I am beginning to think other factors were at work as well. Recent events elsewhere in the country indicate a parallel between the feelings of rage experienced by opponents of the Skokie demonstration and feelings of anger emerging among other segments of American society. It is as though, over the last ten years, an ever-intensifying sense of frustration has arisen out of a widespread perception that the American legal system has gone too far in protecting the rights of political pariahs, criminals, and racial minorities. The provocative, unpopular, and sometimes illegal conduct of some persons and groups operating outside of the nation's mainstream is being met with the increasingly widespread feeling that the legal system is not serving a majority of Americans. Because of this frustration, significant numbers of people feel justified in resorting to radical self-help rather than abiding by the rules created by the legal system.

One of the most dramatic examples of this phenomenon to emerge during the last year has been the increasingly violent response of segments of the "Right to Life" movement to the growing availability of abortions authorized by the Supreme Court decision in Roe v. Wade. During the last twelve months, anti-abortion activists have bombed more than twenty abortion clinics. A fear of further bombings led officials of the federal government to warn operators of abortion clinics to be prepared for additional bombings at the time of

was false, anti-democratic, and extremely offensive to particular religious or racial groups. Their argument, while appealing, seemed inconsistent with the First Amendment traditions that treat ideas as viewpoints and not as facts. The Supreme Court consistently has refused to measure political advocacy according to the judiciary's or public's view by standards of the value of its content. Moreover, the question about the degree of protection to which discredited and morally offensive political ideologies were entitled was not actually before the courts. The demonstrators were not planning to harangue about Nazi ideology. On the contrary, the demonstration was to be silent. The demonstrators' communication was to be confined to signs complaining that NSPA constitutional rights were being denied by the refusal of permits to assemble elsewhere.

The familiarity of the legal questions was offset by the unexpectedly intense emotional reaction against the demonstration. Many opponents became so enraged that they suggested the First Amendment ought to be changed if it allowed demonstrations by Nazis. Others argued the often repeated, but not generally accepted, theory that First Amendment doctrines should not be construed to apply to speakers espousing anti-democratic ideologies. Yet others wanted to extend the tort law to create a private cause of action against any speaker whose message was so offensive that it inflicted psychic trauma. Indeed, some opponents of the demonstration concluded that if the courts would not prevent it, then they would do so by violent means directed at either the demonstrators or their attorneys. For example, several weeks before the demonstration, a bomb was planted near NSPA headquarters on the south side of Chicago. The lawyers representing the NSPA were threatened with assault and assassination. The anger became so intense that it persists today. In a recent interview, one of the leaders of the opposition to the demonstration stated that because I provided legal counsel to the NSPA, I "should have been quartered."
the presidential inauguration and the anniversary of the *Roe v. Wade* decision. Also, during the last year, Supreme Court Justice Harry Blackmun, author of *Roe v. Wade*, received a letter threatening his life.

The emergence of unrestrained rage in response to *Roe v. Wade* bears a resemblance to the quality of the public reaction in the Skokie controversy. Opponents of each of the constitutionally protected activities are implacable. Instead of treating each controversy as one in which radically different views must be accommodated if democracy is to work effectively, those who disagree with judicially formulated rules protecting individual rights find such rules intolerable. Many are angry enough to try to impose their views and suppress conflicting views by violence, if all else fails. More moderate objectors prefer to redefine the constitutional safeguards or amend the Constitution itself rather than accept judicial precedent that allows room for all viewpoints.

Another example of this phenomenon emerged from the recent arrest of Bernhard Goetz, the New York subway rider who shot four youths who verbally tried to bully him into giving them five dollars. He fired all of the bullets of his pistol into his antagonists, hitting two of them in the back. He is alleged to have asserted that he would have kept shooting had he not run out of bullets. Mr. Goetz's rage was probably predictable since he previously had been a robbery victim who was badly shaken by the experience. What is important for present purposes, however, is the outpouring of public support for Goetz's vigilantism. Notwithstanding evidence that the shooting was unnecessary and excessive many Americans, enraged by what they believe is an ineffective criminal justice system, feel sympathy for this man who took the law into his own hands. One New Yorker wrote to the *New York Times* to say, “Thank God for that Vigilante, Bernhard Goetz for Mayor.”

The Reagan Administration has amplified widespread frustration with the American legal system by publicly siding with the segments of the American public who feel aggrieved. If the Administration's landslide victories are to be taken
as a measure, then its apparent goal of reducing judicial decisionmaking that is protective of unpopular political, religious, and racial groups is meeting with general public approval. Its efforts have included aggressive attempts to make the federal courts mirror popular sentiment by appointing judges who openly reject past Supreme Court decisions protective of individual rights to freedom of choice in abortions and protective of defendants in criminal cases. Some members of the Administration have stated during news interviews that they hope by selection of new judges to obtain a reversal of the Supreme Court doctrines that incorporate many of the provisions of the Bill of Rights into the Fourteenth Amendment, making them applicable to the states. Justice Rehnquist's public assurance that "court-packing" does not usually work has only served to highlight the Administration's efforts at ideological screening of judges. The President himself has expressed unrestrained contempt for the work of the judiciary by combining his call for a constitutional amendment to prohibit abortions with a public characterization of abortion as "murder." Similarly, in sympathy with public hostility towards legal doctrines protective of the rights of criminal defendants, members of the Administration have said that liberal advocates of these principles are a "criminal lobby."

Thus, my look backwards at the Skokie controversy leaves me with the impression that beyond the intense feelings rooted in the holocaust the rage was an echo of a more generalized sense of frustration with judicial decisions that expansively interpret the Bill of Rights at the expense of the strong contrary preferences of powerful constituencies. My initial view that the Skokie controversy was completely distinct from other superficially unrelated controversies was an oversimplification. It seems much more accurate now to view Skokie as one of a series of controversies touching off intense and widespread anger with the consequences of legal doctrines that seem insensitive to the preferences and needs of significant numbers of American citizens who were unwilling to be bound by them.

What this suggests about the future is not altogether clear. The combination of widespread rage and the enthusiasm of political leaders to try to incorporate that rage into their political agendas suggests America may be in the process of becoming a country in which judicial protection of individual rights will cease to play a particularly important role in national life. On the other hand, the intense frustration with the efforts of the legal system to protect those with small or quiet constituencies may be no more than a temporary feature of the normal ebb and flow of current events. We will all have to wait a good many more years before we know whether intolerance of extreme differences will reshape the contours of judicial protection of individual rights. In the meantime, I will not again make the mistake of seeing any public controversy in isolation from superficially distinct events and undercurrents happening elsewhere in the country.
Another Perspective on the Flat Tax Discussion

Walter Blum

The ongoing discussion over having a flat tax on income is only distantly related to taxing income at a single rate. A one-rate tax to be sure has been proposed, but few consider it a viable alternative to the existing system. It is rejected because it would reduce the tax burden on the well-to-do and increase the burden on the poor, including many who are receiving welfare benefits. Somewhat more attention is being given to the idea of a single rate for all taxable income over and above some exclusion level. The scheme would involve two rates—a zero rate for the excluded amount and the one positive rate for all additional taxable income. While this plan would avoid the shortcomings of a flat tax and would lead to progressive effective rates among all taxpayers, it is strongly opposed by those who believe that incomes exceeding the exemption level ought to be taxed at rates that rise as income increases. Thus, a wholly flat tax and an exemption-modified flat tax, while mentioned, are not taken seriously on the political scene.

Instead, the controversy is essentially about reforming the income tax system by greatly broadening the base and simultaneously reducing significantly the rates applied against that base. Many will no doubt regard this approach to reform as anything but novel. And the reaction is well grounded. During the 1960s and most of the 1970s, the trade-off theme was the most often voiced program of commentators who were dissatisfied with the shape of the income tax system. Proposed trade-offs produced vigorous debate and at times garnered considerable political support. But despite all the obvious virtues of combining base-broadening and rate reduction, the idea failed to attract an imposing following. As a participant in the struggle, I acknowledge that the opposition was overwhelming.

This brief background sketch invites a question: what changes have occurred since the earlier battles that might explain the increased optimism being expressed that the result will be different this time around? Why are more public figures friendly to reform proposals of a type that earlier got nowhere?

Perhaps the answer is so basic that a short response is sufficient. It is possible, I suppose, that a good idea is at last gaining widespread recognition as being just that—the merits of the case are finally being appreciated for their real worth. While this might be a comforting explanation, it fails to take into account a lot that seems to bear upon the current interest in a trade-off plan. To settle for the simple view, moreover, would spoil the fun in speculating about the ties between past and present and maybe even the future.

So I prefer to look back and reflect on why the efforts of the base-broadening reformers of yesteryear fell flat. Out of a rather long list of concerns that energized the opposition, a half dozen now strike me as having blocked the movement decisively.

At the top of this list of concerns I put the absence of any trustworthy assurance that a trade-off would be honored by legislators in the future. A constrained tax base—some would say the existence of a multiplicity of exemptions, deductions, and credits—appears to hold an overarching advantage for taxpayers (and others) who are in a position to make good use of rules that treat some kinds of income or expenditures more generously than would the normal prescription. So as long as the "breaks" remain in the base, they serve as partial protection against an increase in the tax rates. The preferred taxpayers saw themselves giving up this protection in return for lower rates because there was little reason

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to believe that the old “breaks” would be reinstated if rates were ever raised in the future. This line of vision led to suggestions that the trade-off be cemented by a constitutional amendment that would place a ceiling on the highest permissible rate.

The hold-on-to-the-protection attitude was reinforced when the preferred taxpayers noted the cast of characters in the ranks of the base-broadening reformers. Among the most vocal in a mixed group were a number of prominent tax theoreticians and political advisers who previously had advocated the adoption of highly progressive rates in order to redistribute income from those with larger incomes to those with smaller incomes. In plain terms, there was skepticism and distrust of a reform scheme being urged by those who championed more redistribution through progressive taxation. Surely, it doubtless was murmured, these “liberals” want a broader base as a means of furthering their goal of greater redistribution. The presence of the redistributionists in the reform movement tended to cause the more conservative analysts who also endorsed the trade-off to be overlooked.

The overall mathematics of a trade-off was a related concern. At the time of the earlier skirmishes, the highest marginal rate was a quite stiff seventy percent. Various trade-off plans then under discussion called for different top rates, ranging from twenty to fifty percent. For many of the well-to-do who stood to lose preferential opportunities, a reduction of the top rate from seventy to fifty percent was not regarded as a wonderful step forward. Even when a thirty-five percent ceiling was invoked for purposes of illustration, a goodly number of taxpayers and taxing groups mentally added at least ten more percentage points in doing their own mathematical calculations.

Another related concern was the manner in which the base was to be broadened. It stood to reason that (all other things being equal) the more the base was expanded the more rates could be reduced. If the broadening was not very general, however, some preferential features in the tax rules would be eliminated while only a relatively small reduction in rates was enacted. Consequently, the properly cautious parties began to worry that their tax exemptions, deductions, and credits would be terminated in return for very little cutting in the rates that affected them.

The proponents of a trade-off were in a dilemma. If they advocated ending most preferential provisions they could come up with an appealing rate schedule. But the more provisions they targeted the greater the number of resisters they would encounter. Meanwhile the discussions were colored by the almost omnipresent suspicion on

"... the controversy is essentially about ... greatly broadening the base and simultaneously reducing significantly the rates ..."

the part of groups and individuals that during the course of the legislative process it mainly would be their favorite preferential provisions that would be dropped.

Most of the trade-off proponents recognized that the underlying shift was bound to worsen the tax position of certain groups of taxpayers—those who benefited to the largest extent from the preferential provisions. To overcome resistance from these quarters, it was suggested that the trade-off be accompanied by a significant overall reduction in the revenues collected through the income tax. The thought was that such a move would lessen the number of taxpayers who would suffer immediately from enactment of the trade-off. It was recognized, however, that even a sizeable cutback would not ensure that every taxpayer would be as well off afterwards as at the time the discussions were taking place.

Then there was concern about the impact that repeal of preferential provisions would have on existing institutions and the value of assets. Elimination of almost any preferential provision would alter the economic calculus pertinent to engaging or not engaging in certain activities. In most instances it could be argued plausibly that each of these activities, standing alone, contributed to the well-being of our society. Looked at simplistically and in strict isolation, a curtailment in that activity would detract from the general welfare of the society. In many areas, moreover, the existence of a preferential provision caused an enlarged demand for particular types of assets and therefore contributed to a rise in their market value. A sudden end to the beneficial tax rule would not only deny continuation of the benefit to those able to enjoy it but, in addition, would destroy asset values that depended on keeping the preferential rules. A double blow might thus be inflicted on certain taxpayers as a result of enacting a trade-off plan.

Concerns of this nature made some reformers think more closely about transitional rules. To soften the distress that would be felt by a sudden shift to a broader base, consideration was given to such ameliorating provisions as grandfathering rules, phased-in transitions, delayed effective dates, and the like. These softeners, however, could not hide the fact that the changeover from one tax base to another necessarily would entail secondary consequences of a painful sort to wealth owners and to familiar institutional arrangements.

Finally, there was widespread doubt about the attitudes of legislators. Virtually everyone understood that legislators find it pleasant to provide preferential provisions that benefit certain constituents and unpleasant to end the flow of goodies previously bestowed. But the doubt went beyond this accepted wisdom. Might it not also be the case that many legislators would once more find it in their interest to hold out the possibility of tax preferences to various constituents or keep others in line with the threat of having prefer-
### Form 1040
#### U.S. Individual Income Tax Return

**For the year ending December 31, 1984**

**Use IRS labeled, otherwise, please print or type.**

**Your first name and initial (if joint return, also give spouse's name and initial).**

**Last name.**

**Present home address:**

- **Number and street, including apartment number, or rural route.**
- **City, town or post office, State, and ZIP code.**

**Your employers:**
- **Name.**
- **Address.**

**Note:** Checking "Yes" will not change your tax or reduce your refund.

### Presidential Election Campaign

- **Do you want $1 to go to this fund?**
  - **Joint return, does your spouse want $1 to go to this fund?**

### Filing Status

Check only one box.

- **Single.**
- **Married filing joint return (even if only one had income).**
- **Married filing separate return.**
- **Head of household (with qualifying person).**
- **Qualifying widow(er) with dependent child (Year spouse died).**
- **Qualifying widow(er) with dependent child (Year spouse died).**

### Exemptions

- **Always check the box labeled Yourself.**
- **Check other boxes if they apply.**

### Income

Please attach Schedule B if over $400.

- **Wages, salaries, tips, etc.**
- **Interest income.**
- **Dividends.**
- **Sale or exchange of property.**
- **Alimony received.**
- **Business income or (loss).**
- **Capital gains or (losses).**
- **Other income.**

### Adjustments to Income

- **Unemployment compensation.**
- **Social security benefits.**
- **Taxes on taxable bonds.**
- **Taxes on security income.**

### Total Income

- **Add lines 23 through 31. This is your total income.**

### Adjusted Gross Income

- **Subtract line 32 from line 23. This is your adjusted gross income.**

**If your adjusted gross income is less than $10,000, see "Earned Income Credit" (line 59) on page 16 of Instructions.**

**If you want IRS to figure your tax, see page 12 of Instructions.**
ences withdrawn? Were this true of a substantial number of legislators, the argument over making a trade-off would be academic. Even if a trade-off were somehow enacted into law, there would still be great inducements in the future for representatives to create another set of preferential provisions. While these gloomy thoughts may not have been articulated clearly by opponents of a trade-off, they surely contributed to the negative response expressed by many during the earlier debates.

"Elimination of almost any preferential provision would alter the economic calculus pertinent to engaging or not engaging in certain activities."

I turn at this point to recent developments that may be seen as strengthening the case in favor of a giant trade-off plan. Once again I can locate some half dozen that deserve special comment.

Probably the most dramatic of these developments has been the explosive proliferation of tax shelters. Means of insulating income from taxation have been utilized since the beginning of the income tax; it is only in the past decade or so, however, that whole new industries to package and market shelter deals to broad segments of the public have appeared. Many of these were out-and-out frauds or bordered on being fraudulent; many made no economic sense except for the promoters and other insiders; many attracted large shares of resources into activities that otherwise could not stand the test of the marketplace. The huge growth and marketing of shelters has raised questions about the soundness of numerous deductions, credits, and exclusions that are the foundations of the deals. To say the least, the shelter story has left a bad taste in many a mouth.

At the same time the tax rules generally have become increasingly complex, especially in the last few years. A diversity of factors are at work here. Congress has tried to influence a larger set of economic decisions and related conduct through tax inducements and penalties; new tax legislation is written in much greater detail than in the past; extensive efforts have been made to spell out in the law limitations on taking advantage of preferential provisions (including limitations directed against some patterns of tax shelters); and the need has grown to provide rules that prescribe how different preferential provisions fit together. A quick measure of all this is to be found in the accelerating pace at which the Internal Revenue Code and the Treasury Regulations have been expanding in size—to say nothing about the number of official forms that conceivably might be attached to the basic tax return. The proliferation of rules, words, and paper work has led many to conclude that something radical must be done to keep the income tax system afloat.

There clearly is partial validity to the notion that extensive base-broadening would result in simplification of the income tax system. Completely eliminating various deductions and credits obviously reduces the number of issues that confront some taxpayers; lessening the reach of some deductions would have a similar effect. Both strategies tend to reduce the need to keep detailed records of various kinds. Sweeping more economic income into the tax base, however, will not always be a clear-cut gain for simplification. While drawing a distinction between income items that are fully included and those that are excluded in whole or in part does present taxpayers with problems, the mechanics involved in bringing certain categories of income (such as numerous fringe benefits) into the base will introduce other and perhaps more vexing problems not previously experienced. Nevertheless, base-broadening now is thought by many to be closely associated with simplifying the system.

Growing concern over compliance with the income tax laws has also increased interest in reform. Measurement of compliance has become more precise and the estimates are alarming. The main message to emerge is that noncompliance—even apart from the world of illegal operations—has been on the rise. Explanations for this growth abound, although the theories remain to be tested. Whatever the causes may be, the conventional wisdom of the day connects noncompliance with a deepening public sense that the tax laws are unfair—unfair because there are so many preferential provisions that enable a large number of individuals to avoid paying a "proper" share of the tax; unfair because shelter schemes seem to shield higher-income people from the bite of taxes altogether; unfair because the rules are so complicated that smart advisers can twist them for the benefit of their clients. If the system is so unfair, it is silently asked, can failure to comply with all the rules be reprehensible? Noncompliance might even be looked upon as a kind of make-

"... legislators find it pleasant to provide preferential provisions ... and unpleasant to end the flow of goodies ..."
have become less attracted by the possibility of using relatively high marginal rates of tax to redistribute income and more interested in the dampening effect that such rates have on a multitude of decisions by individuals to save or invest or work or structure their lives in particular ways. A trade-off of lower rates for base-broadening has a double appeal to those who focus on the role of marginal rates in the decisionmaking process. Marginal rates in general will come down, and the implicit marginal rate differentials that are generated by preferential provisions will be reduced or eliminated. Although this admittedly is pretty heady stuff, surely more and more public figures talk about the importance to society of lowering marginal rates and minimizing rate differentials. Some even go so far as to claim that lower rates will encourage higher levels of compliance—a position that is hardly buttressed by the fact that noncompliance seems to have increased at a time when marginal rates were falling.

At last I come to the question of how these recent developments match up with the concerns that thwarted earlier efforts to trade off base-broadening for rate reduction. We have witnessed, I am willing to assume, increased dissatisfaction with the perceived fairness of the system, decreased compliance with the rules, more uneasiness over the complexity of the law, greater awareness that some groups (often said to have political clout) seem to shoulder relatively light tax burdens, considerable disgust with the tax shelter universe, and greater sensitivity to the undesirable consequences of high marginal rates and implicit rate differentials attributable to preferential provisions. Are these newer developments likely to dissipate the concerns of the earlier period?

My own judgment is that almost all the old worries are still out there. While it is true that the new proposals for a trade-off have come mainly from conservative forces, they are also being embraced quickly and strongly by those who follow in the mold of the earlier reformers. And though the redistributionist strain in the society seems at the moment to be less prominent, it has not evaporated. The groups who benefit from preferential provisions (including, of course, lawyers) have not diminished in number or strength. Probably there are more of them now merely because the law contains more preferential provisions around which partisans can rally. From all appearances the groups are better organized and more vocal than ever before. A big trade-off today would adversely affect more groups than in the past.

The fact that top marginal rates are now substantially lower than before cuts both ways. While there may well be less ideological attachment to higher rates, there is relatively less room for cutting rates as part of the trade-off. At this time, need it be said, there is almost no possibility of making the entire trade-off package more politically palatable by reducing the overall revenue generated by the income tax. In earlier years, the hope was expressed that many individuals might find it acceptable to lose their preferred positions if the income tax take could be reduced across the board. In the face of the current deficit situation it is most unlikely that tax relaxation will be high on the agenda.

Nor are there strong signs that legislators have become disen­chanted with the notion that they can please constituents and improve conditions in the country by tinkering with the rules of the tax game. There has been a perceptible decline in the ability of the tax-writing committees in Congress to maintain discipline over the members; numerous Congressmen have added to their staff tax specialists who appear to gain recognition by producing language for incorporation in legislation; and there seems to be an ever-stronger temptation to spell things out in great detail in the statute.

So I conclude that the old concerns have not diminished by much, if at all. That leaves us with the question whether the resistance stemming from these worries will be overcome by heightened sensitivity to perceptions that the existing model—a combination of relatively narrow base and relatively high rates—is unfair, causes complications, generates noncompliance, distorts economic decisions, and is overly responsive to political muscle. I would like to know the answer. Among other considerations, it would make life easier for me in planning my tax course for next year.

But while I do not know who will prevail in the present round of the battle over a trade-off, a word of caution is in order. If it is decided that an increase in total revenue from the income tax is sound policy in light of the deficit, then a trade-off may well give way to a one-sided change—the base would be broadened while the rate scale is left untouched. Without a significant reduction in rates, however, it is not very likely that the resulting base-broadening would be of monumental dimensions. Experience might suggest that, other than in times of war (or perhaps comparable emergencies), it would be unwise to rile the many groups with vested interests in preserving the tax base status quo without also offering large numbers of taxpayers something of dollar value in return. An effort to enlist their support by a plea for greater fairness in allocating the tax burden is not apt to succeed if they see themselves as losing ground while at the same time others come out ahead.

Those of you with long memories will recall that there once was a commonly used label for the process of selectively terminating or confining preferential provisions. It was called "loophole closing." Perhaps that goal, rather than a so-called flat tax, will turn out to be the theme of the next round of tax reform.
Prediction and Selection in Law School Admissions

Richard I. Badger

Some years ago, a member of our faculty received a letter from an unhappy mother. Her son had been denied admission to the Law School and she had written to ask that his application be reconsidered. After criticizing the admissions committee for having placed too much weight on the traditional numerical factors—the Law School Admission Test (LSAT) score and the undergraduate grade point average (GPA)—she suggested that the committee should consider a somewhat different approach. While attending her son's college graduation, she had noticed the license plates of cars that had come from all over the country for the event. She calculated that the amount of fuel consumed in bringing these people to the graduation was staggering. Vast amounts of additional fuel would be needed in the future as classmates traveled to join each other at weddings, reunions, and other meetings. She concluded that the Law School could do its part to conserve gasoline if the admissions committee paid special attention to the distance between an applicant's home and Chicago. This particular family, as I recall, lived in Evanston.

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In recent years, many unhappy parents, frustrated applicants, perplexed alumni, and others have questioned how Chicago and other selective law schools make their admissions decisions. The angry mother's reasoning reflects common misconceptions shared by those who can see the process only in terms of who is admitted and, more often, who is denied. Unfortunately, this perspective makes it difficult to appreciate the relationships among a variety of factors contributing to the final decisions. This article will examine those factors and their relationships. One caveat: While I write from the experience of twelve years and 30,000 applications to the Law School, these views are my own and (fortunately) they have not always been shared by every member of the faculty admissions committee.

First, some historical perspective. Prior to the end of World War II, the law school admissions process was quite simple. Someone once suggested that the only number relevant to admissions during that period was 98.6. Any warm body with a college degree had the opportunity to attend law school because even the most selective schools had relatively few applicants for their available spaces. Those who could meet the tough academic standards received their law degrees; those who could not had to leave after the first year. Thus, while there were some efforts to identify those who were "qualified" (i.e., likely) to complete a law school program, the selection function was left largely to the rigors of intellectual competition during the first year of school.

The large cohort of World War II veterans seeking college and graduate educations brought dramatic changes in admissions procedures. Larger applicant pools gave schools the opportunity to make selective judgments about a candidate's ability to handle their academic programs. Not coincidentally, the first LSATs were administered in the late 1940s. During the 1950s, "qualified" was defined by the most selective schools as showing a "high probability" of earning the degree. As application volumes increased again during the 1960s and early 1970s, law schools had as many as ten to fifteen applicants for each available space in the class. In this context, being "qualified" was no longer a relevant test because a majority of the candidates for most schools were capable of meeting academic standards. Although the national applicant pool for law schools began to decline several years ago, some schools continue to have many more capable applicants than they can accom-
applicant pool that determines the decision on each application and, in turn, the composition and nature of an entering class. Although the more selective undergraduate institutions tend to give the academic and personal considerations equal weight in the admissions process, Chicago and the other selective law schools emphasize academic ability in admissions. Why? First, the intellectual demands of legal education are greater than most work at the undergraduate level, and admissions committees feel it is important to judge how well a student will respond to those demands. This is particularly true at a school, such as Chicago, that emphasizes a rigorous and scholarly approach to the law. Second, our ability to make predictions about academic performance is better than at the undergraduate level because we are looking at more mature candidates with longer academic track records. Finally, because we know what our students will study, we need not be as concerned as undergraduate schools with many of the selection characteristics. While it is desirable to have a mix of poets, physicists, and point guards in the Law School, it is not necessary to ensure their presence. This does not mean that law school admission committees pay no attention to personal attributes. On the contrary, selection characteristics are pivotal in judging the many applicants who are essentially indistinguishable in terms of academic qualifications. To see which applicants those will be, we must first look at the process of predicting academic success.

There is a general belief that the LSAT score and the undergraduate GPA are the major, if not the only, factors involved in the admissions process. Our ability to quantify these two factors—to put them on numerical scales—gives them certain qualities other predictors lack. We can talk about the average LSAT score of an applicant pool but not its average level of maturity. We can compare an applicant's undergraduate GPA to equivalent figures for other candidates at the same undergraduate college much more reliably than we can compare levels of motivation. The most important characteristic of these numbers, however, is our ability to test whether they do what we want them to: predict academic performance in law school. Each year Chicago and most other law schools arrange for validity studies to see how well these numbers predict or correlate with law school performance. Although efforts have been made to correlate these predictors with various skills in law practice or professional promise, they have not been successful because of the inherent difficulty of quantifying these standards. Our validity studies tell us that at Chicago the undergraduate GPA does help to predict performance in law school, that the LSAT is a somewhat better predictor than the GPA, and that the two numbers, when combined in some fashion, provide better prediction than either does separately. While the numbers are helpful as predictors, they are far from perfect. At Chicago, the two combined predictors will explain between fifteen and twenty percent of the variation in academic performance for a typical first-year class. The correlation would be substantially better, of course, if we had a broader range of LSAT scores and GPAs in the class. In other words, the more we narrow the range of the predictors...

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To Interview or Not to Interview

Most medical schools do it. Many business schools do it. Even some graduate programs do it. For many years, however, law schools have not done it. Chicago is the only law school in the country that systematically interviews a substantial portion of its applicant pool in various locations around the country. We began using evaluative interviews in the mid-1970s primarily out of frustration. The applicant pool had increased in size and quality to the point that the admissions committee found it difficult to distinguish among a large number of very able candidates based on the paper records. While we hoped that the interviews would help us identify more clearly some of the important personal factors, we were aware that the use of interviews presented special problems.

Evaluative interviews are the most subjective aspect of the admissions process. The brevity of the exposure—twenty to thirty minutes—raises serious questions about the reliability of the impressions, particularly in comparison with faculty recommendations. Another major objection was the fairness of requiring all interviewed applicants to come to Chicago because some candidates could more easily afford the trip than others. Finally, there was the question of how much weight we should place on characteristics identified in an interview—poise, language facility, and quickness among others. To deal with these concerns we built into the interviews a number of safeguards. Because we did not expect the interviews to help us predict academic performance—a New York University Law School study some years earlier had established that point—we decided to use the interviews primarily with those candidates where there were not already strong prediction presumptions of admission or rejection. We arranged to conduct the interviews in most locations around the country (sixteen places last year) where we have concentrations of applicants. In most locations, we decided to have two interviewers working together—usually a member of the faculty or administration and a recent graduate—to obtain composite impressions. Graduates who help with the interviews generally spend at least a full day doing them so they will have an overall impression of fifteen to twenty applicants, a reasonable sampling of the pool.

Our experience has been that about half of the interviews create neutral impressions and thus are not much of a factor in making those particular admission decisions. In the other cases, however, favorable and unfavorable impressions are considered along with other selection factors in deciding which applicants to admit. Because interview impressions are not expected to help with academic prediction, it is impossible to judge their effectiveness in the same way we can test the validity of the LSAT scores and GPAs. There is, however, general recognition among our students and faculty that the interviews help us to put together a more interesting and lively—some might even say "feisty"—entering class. In short, we believe there is a substantial institutional benefit derived from interviewing applicants without any cost in the prediction of academic success.

For people in the entering class by excluding those who have relatively low predictors, the less likely the predictors are to have a high correlation with actual performance. To use a sports analogy: We can expect that taller basketball players will probably make more rebounds than shorter ones. If all of the players on a team are selected on the basis of height and they are all very tall, the number of rebounds they will actually make, in comparison to each other, will have little to do with the small differences in their respective heights.

Once we know that LSAT scores and GPAs are useful in predicting academic performance, we can state as a general principle that the higher the LSAT score and the higher the GPA, the more likely it is that a particular applicant will perform well in law school. This likelihood establishes the prediction presumptions of the admissions process. To see how the process works, we must divide the applicant pool into groups that correspond to certain LSAT score and GPA ranges. In the accompanying diagram (page 20), the horizontal lines represent differences in GPAs and the vertical lines represent differences in LSAT scores. We can sort our applicants by placing individuals in the groups that correspond to their own LSAT scores and GPAs. Those applicants in the upper right hand corner will have both the highest LSAT scores and GPAs; those in the lower left hand corner will have the lowest. Based upon the results of our validity studies, we can establish the probability of academic success for any particular group of applicants. Thus, we could expect that perhaps ninety percent of the applicants in the upper right hand corner would do at least average work in law school but only five percent of those in the lower left hand section would do average work. The prediction question then becomes one of identifying which applicants within a particular section will be the successful students and which will be the unsuccessful ones. In essence, we have to ask ourselves how confident we are in making such distinctions among similar candidates, where the quantifiable factors suggest that most in a particular range will do well or most will not.

This process of dividing the applicant pool by LSAT scores and GPAs might be called a quantifiable factor sort because it is based upon the two factors in the application that can be easily quantified. We could stop at this point, as some law schools do, and simply admit all of the applicants in each section of our diagram, moving from the upper right hand corner toward the lower left hand corner, until we had filled the class. Such a procedure would reflect the belief that we cannot improve on predic-
tion by looking at individual applications and that the personal or selection factors should play no role in the admissions process. But it is my impression that only a very few law schools—none of the most selective ones—stop at this point.

How can we improve prediction by looking at individual applications? We can do this by making GPA adjustments which reflect our subjective judgments about individual academic records. Returning to the diagram, this would involve the movement of applicants up or down among vertical groups within the same LSAT range. Since not all 3.5 GPAs are created equal, we should not be surprised to discover that the LSAT, a standardized measure of all applicants, has been a better predictor than the unadjusted GPA. The overall quality of the undergraduate school attended and its grading practices will often be important considerations in adjusting the GPA. The quality of an undergraduate school is judged by the past performances of its graduates who have attended the Law School and, more generally, by the performances of all its students who have taken the LSAT in recent years. This adjustment favors students who have attended the most selective colleges and universities. In addition, the grading patterns and distribution will vary substantially among institutions. A 3.5 GPA at one institution might put a student in the top ten percent of the class while at another college a student with a 3.5 might be only in the top half of the class. A student's actual or estimated class percentile ranking is often more helpful information than the GPA.

A centralized data base, maintained by the Law School Admission Council, provides information from which these adjustments can be made. Finally, applicants' transcripts are reviewed to determine the difficulty of the courses taken. Letters of recommendation from professors play a particularly important role. The admissions committee tries to identify the extent to which an applicant has demonstrated analytical skills and the ability to speak and write with precision, fluency, and economy.

Having made adjustments based on the examination of individual academic records, we have probably refined the predictive power of the admissions process about as far as possible. We could stop at this point, go back to our diagram, and begin to admit people in the upper right hand corner based upon our refined evaluation of their academic ability. At this stage, our decision to admit most applicants in the upper right hand corner and deny most applicants in the lower left hand corner will reflect our realization that we probably cannot "beat the odds" by trying to identify the few who will not perform as predicted. But as we move to the center of our applicant pool our confidence in the academic distinctions between applicants diminishes. It is at this point that we rely more heavily on selection or personal characteristics in deciding which applicants to admit.

Earlier in this article I indicated that the task for admissions committees with too many academically qualified applicants is to identify those most able and most likely to take advantage of a school's educational opportunities and most likely to enrich the opportunities of their classmates. Our efforts to improve prediction are directed primarily at judging an applicant's ability to make use of what the school has to offer; looking at the personal characteristics helps us determine the likelihood that an applicant will use that ability in law school and will contribute to an interesting and stimulating educational environment. What follows is a discussion of the personal factors that our admissions committee has considered in recent years. The relative weight given to these factors varies depending upon our ability to identify them and judge their significance. In order to make these judgments we look at the personal statements and letters of recommendation contained in most applications. We will also give evaluative interviews to approximately twenty percent of our candidates.

Assistant Dean Richard Badger appears to be in over his head as he surveys the 2700 applications received for the Law School Class of 1988.
The nature of legal education—large classes, the case method, and substantial amounts of material to be mastered—make some personality traits especially relevant in judging the likelihood that an applicant will make the most of his or her education. Students will often learn as much from their classmates as from the faculty. Thus, interaction among students is an important feature of legal education, and those who enjoy engaging in discussion in and outside of class are more likely to flourish in this atmosphere. This is particularly true in a small law school, such as Chicago, where every student is expected to contribute to the educational community. The student who is intellectually alive and curious is more likely to stimulate classmates and faculty, and sustain academic progress between examinations. A student must be diligent and well organized to handle large quantities of material. A well-developed sense of humor is helpful in adjusting to the pressures that many students will experience in law school.

Applicants and their advocates often point with pride to extensive lists of extracurricular activities and accomplishments. While there are obvious difficulties in judging the significance of these items in most applications, there are a number of applicants each year whose accomplishments clearly impress the admissions committee. These are generally students who have made a substantial commitment to a nonacademic activity—the college newspaper, varsity athletics, public service involvement, or part-time employment—while maintaining a strong academic record. Moreover, approximately forty percent of the students currently in the Law School were out of college for at least a year before beginning their legal studies. Many of these students had extensive work experience or graduate training in a variety of disciplines. The admissions committee believes that such students contribute useful perspectives to the classroom. Chicago’s contribution to the legal profession rests, in part, on the diversity of its student body. While much of this diversity flows naturally from a national applicant pool, the admissions committee makes special efforts, in both recruitment and admissions, to ensure that each entering class contains students from a variety of geographic, educational, racial, and ethnic backgrounds. For example, each fall we use the Law School Admission Council’s Candidate Referral Service to invite minority candidates to apply to the Law School. In addition, representatives from the Law School annually recruit at a number of colleges, including several of the predominantly Black institutions. In assessing the qualifications of minority applicants, the admissions committee makes every effort to look well beyond the LSAT score and the GPA. Because of the Law School’s strong commitment to increase the number of minority students, each member of the committee carefully reviews the full file, including transcripts, recommendation letters, and writing samples, and a substantial number of the minority applicants are interviewed prior to a final admission decision. Since the Law School competes with other selective schools to attract the most able minority applicants, special programs are arranged each

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**Chicago’s Applicant Pool**

To a large extent, the overall quality of a particular law school’s applicant pool, expressed in terms of LSAT scores and undergraduate GPAs, will determine an individual candidate’s chances of admission. We received approximately 2600 applications for the 175 places in our 1984 entering class. The median LSAT score for the pool as a whole was at the 87th percentile in the country and the median GPA was a 3.42 on a 4.0 point scale (i.e., A=4, B=3, C=2, and D=1) which is about the 75th percentile nationally. For the admitted applicants, the median LSAT score was at the 97th percentile and the median GPA was 3.75, about the 93rd percentile. As impressive as these numbers are, perhaps the most striking statistics about the applicant pool—and the ones that most clearly reflect the importance of the personal characteristics—are the following: forty-five percent of our applicants who had LSAT scores at or above the admission median (97th percentile) and forty-six percent of our applicants who had GPAs at or above the admission median (3.75) were not offered admission. The diagram below represents the percentages of applicants who were admitted in various LSAT score and GPA ranges.

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**LSAT Score Percentiles**

<table>
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<tr>
<th>GPA</th>
<th>Below 3.25</th>
<th>3.25-3.49</th>
<th>3.50-3.74</th>
<th>Above 3.74</th>
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</thead>
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<td></td>
<td>Below 71</td>
<td>71-80</td>
<td>81-90</td>
<td>91-95</td>
</tr>
<tr>
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<td>0</td>
<td>2%</td>
<td>6%</td>
<td>10%</td>
</tr>
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<td>1%</td>
<td>5%</td>
<td>4%</td>
<td>17%</td>
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<tr>
<td>3%</td>
<td>3%</td>
<td>4%</td>
<td>8%</td>
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<td>3%</td>
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<td>2%</td>
<td>6%</td>
<td>10%</td>
<td>18%</td>
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</tbody>
</table>
The Toughest Cases

The predictive power of the LSAT score and the GPA is such that when they both point in the same direction, either relatively high or low, we feel comfortable using presumptions of admission or rejection. But what do we do when they appear to be inconsistent? The toughest admission cases each year are those in which one of the predictors is relatively high and the other is relatively low. These are applications which fall in the upper left and lower right hand corners of our applicant pool.

To the extent that one believes that the LSAT score indicates ability and the GPA represents performance, the high LSAT score-low GPA combination seems to present an easier problem. With applicants in this situation we look for reasons why the candidate might not have performed up to ability in college. Perhaps it was love, or football, or the wrong major, or just immaturity. Under these circumstances an applicant who "saw the light" in the last year or two of college is likely to look more attractive than one who has a consistently mediocre academic record. By the same reasoning, we are more likely to favor an applicant who puts several years of impressive work experience or strong graduate academic performance between college and his or her application to law school. We are sufficiently confident about the stimulating nature of a legal education to believe that we can turn underachievers into strong performers.

Applicants with excellent academic records and relatively weak LSAT scores generally argue that their strong academic records suggest the unreliability of the LSAT scores as predictors for them. They question how a three and one-half hour examination can carry as much weight as three and one-half or more years of sustained academic performance. While the underachiever points to potential, which he or she is now ready to realize, the applicant with a strong record and a low LSAT score points to past performance and urges that the test score be disregarded.

This year a faculty recommendation letter described an applicant with high grades and a low LSAT score as "a strong student who compensates with extraordinary effort when he lacks the acuity of sheer intelligence." There is a general view among those who read our applications that extraordinary effort in college, when many students may be "otherwise engaged," may yield higher grades than it does in law school when all students are working hard. Beyond that, there is the concern that a college student who has devoted all of his attention to academics may not have the extra ability to manage more demanding work in law school. In these situations, the admissions committee pays particularly close attention to the transcript and recommendation letters for guidance in resolving the inconsistency between the LSAT score and the GPA. Attendance at weaker undergraduate institutions or participation in apparently undemanding academic programs—frequently characterized as a "wind-assisted transcript" by a former member of the admissions committee—can be fatal to an applicant's chances. Thus, applicants with high GPAs and low LSAT scores who are admitted each year have usually followed very rigorous academic programs at the most selective colleges and have faculty references who make convincing arguments on their behalf.

Year to encourage admitted minority candidates to visit the Law School and meet with current students and members of the faculty.

Although professional promise is likely to be consistent with academic promise, there are some selection characteristics that may be of particular relevance to the careers of our graduates. While these traits are often the most difficult to identify, the admissions committee is responsive to clear demonstrations of leadership, good judgment, and common sense.

One final selection characteristic deserves mention. When relatives of Law School or University graduates and current students apply for admission, the Law School, of course, considers it legitimate and indeed desirable to give some weight to institutional ties and traditions. The admissions committee tries to take these institutional ties into account when reviewing "close cases." It has been my experience that our students and graduates have been very understanding about the limited extent to which such considerations can be used. They recognize, along with the admissions committee, that the continued preeminence of the Law School depends on a merit-based admissions process.

The most frequently asked question about the admissions process is "How much weight do you put on ...?" I have tried to demonstrate that at the Law School there is no simple answer to that question, regardless of which factor is being considered. Even the prediction factors will have varying degrees of importance depending on the circumstances of the individual application. Selection characteristics will play some role in most decisions, but their importance will increase as our prediction abilities diminish. My description of selection characteristics has been broad but hardly exhaustive. I think it accurately reflects the general approach our admissions committee has taken in recent years. But if there is another oil crisis, all bets are off.
Publications of the Faculty

The publications described briefly below are a selection of recent writings by Law School faculty members.

Albert W. Alschuler


This article is a revised version of Mr. Alschuler's Mellon Lectures at the University of Pittsburgh Law School. It challenges the view endorsed by the Supreme Court and most commentators that effective day-to-day administration of the Fourth Amendment by the police requires the judicial development of “bright line” rules. “What renders the law of search and seizure incomprehensible,” Mr. Alschuler writes, “is not the lack of categorical rules but too many of them.” He argues that the Fourth Amendment has become “a Ptolemaic system” partly because courts have generated “more bright lines than the human eye can keep in view” and because “artificiality begets artificiality.” In developing his thesis, Mr. Alschuler criticizes a number of Supreme Court decisions that have authorized both “searches incident to detentions” and “detentions incident to searches.” Nevertheless, he praises the Supreme Court's 1983 decision in *Illinois v. Gates*, which, he says, by abandoning the *Aguilar-Spinelli* doctrine, restored the concept of probable cause to its historic role as a flexible requirement of case-by-case justification.

Frank H. Easterbrook


Most of the Supreme Court's decisions arise out of disputes about the nature and extent of economic regulation. Mr. Easterbrook examines how the Court addressed the relation between law and economic affairs in the 1983, 1973, 1963, and 1953 Terms. He finds some substantial changes. During much of the period, the Court disregarded the effect of its decisions on business planning and on substitution among methods of achieving ends, and it assumed that all laws were designed to serve the public interest. During the 1983 Term, in contrast, the Court was more likely to examine the marginal effects of rules on future behavior and to consider the possibility that the laws arose from bargaining among self-interested groups. Mr. Easterbrook concludes that the Court's new appreciation of the economics of economic litigation leads to better decisions.

E. Donald Elliott


Mr. Elliott maintains that scholars have paid too little attention in the past to the effect of abstract ideas on the law. In this article, he explores how the most important idea of the last century—Darwin's theory of biological evolution—has influenced the way that American lawyers think about law. Mr. Elliott reviews significant legal works that are based on analogies to evolution, including treatises by Savigny, Maine, Holmes, Wigmore, Corbin, Robert Clark, George Priest, William Rodgers, and Richard Epstein, and proposes that evolutionary models of law can be subdivided into four different schools: *social, doctrinal, economic, and sociobiological*. He endeavors to explain the peculiar fascination that evolutionary metaphors have held for American legal scholars, arguing that their central preoccupation has been to justify lawmaking by courts and bureaucrats. Evolutionary theories of law are attractive, he suggests, because they provide a kind of "natural law" that can explain the order of the legal universe without invoking design choices by a divine creator. He concludes that evolutionary metaphors have both perils and strengths as a context for thinking about law but that at best the evolutionary tradition in jurisprudence is an attractive alternative to law-and-economics or intuitionistic philosophies of justice as a conceptual foundation for theories about law.

R. H. Helmholz


This essay explores the meaning of legal malice in 17th and 18th century actions for libel and slander. Using the manuscript records of the English Common Law courts, Mr. Helmholz describes the pleas available to defendants involving lack of malice on their part. The records show that a wide variety of meanings attached to the concept, and that English juries had considerable discretion in weighing the merits of defamation cases under it. Increasing judicial control toward the end of the period made inroads into the freedom of juries and, more importantly, produced the categories of absolute and qualified privilege familiar to modern lawyers.

Diane Wood Hutchinson


This article examines the five Supreme Court antitrust decisions of 1984, both individually and as a group, to see what conclusions can be drawn about antitrust law at this time. Ms. Hutchinson argues that the Court has deliberately chosen a more complex vision of the antitrust laws than is advocated by, for example, "Chicago School" adherents. Economic efficiency, or consumer welfare, has not yet captured a majority of the Justices. On the other hand, the Court has moved beyond the simplistic per se rules of the 1950s. The consequence is an antitrust law that is difficult and expensive to administer. Ms.
Hutchinson concludes that legislative clarification may be the best way to resolve the policy disputes about antitrust that have led to the Court's shifts in doctrine.

John H. Langbein

In this article, Mr. Langbein contends that fiduciaries must invest trust and pension funds for the financial well-being of the fund beneficiaries, and that both trust and pension law are violated if trustees sacrifice financial return for political purposes.

Geoffrey P. Miller

Over 150 federal statutes authorize courts to award attorneys' fees to prevailing plaintiffs. The justification for such statutes has come to the forefront of public debate as a result of recent proposals to limit their scope. In this article, Miller and co-author Robert Percival argue that fee shifting is a proper means of correcting for market failures and that recent proposals to limit awards under such statutes are unwise.
Carol M. Rose

In 1921, Pennsylvania attempted to forbid coal mining businesses from exploiting underground mineral rights in such a way as to undermine surface uses. The following year, the Supreme Court, speaking through Justice Holmes in *Mahon v. Pennsylvania Coal Co.*, ruled that the Pennsylvania statute was an unconstitutional “taking” of property. In this article, Ms. Rose examines Holmes’s famous “diminution in value” takings test, and after finding that the test is hopelessly vague, examines a number of other possible justifications for Holmes’s takings analysis. She concludes that the *Mahon* case illustrates a dichotomy in American property doctrine that dates back to the founding of the Republic, and that pits an antire distributive wealth-protecting position against a view that would permit some redistribution as a part of civic obligation.

A. W. B. Simpson

*Rylands v. Fletcher*, the leading Victorian case on strict liability in tort law, has often been viewed as an anomalously decision, since the general movement of the law during this period favored liability for negligence. In this article, Mr. Simpson investigates the historical context in which the case was decided and argues that the judges were influenced by the fact that Britain’s greatest-ever reservoir disaster happened to occur while the litigation was in progress. More generally, the article suggests that the evolution and functioning of private law in the Victorian period can be better understood by adopting a contextual approach and drawing upon the abundant but generally overlooked historical material that can be used to recreate the world in which the great leading cases came to be decided.

Geoffrey R. Stone

This article, which Mr. Stone co-authored with Professor William Marshall (J.D., ’77), focuses on a Supreme Court decision holding that a state election law requiring all political parties to disclose their contributor and membership lists cannot constitutionally be applied to the Socialist Workers Party. The article notes the seeming anomaly inherent in the decision to exempt a particular political party from an otherwise neutral rule of general application, and then explores the phenomenon of such “constitutionally compelled exemptions” in light of general principles of First Amendment interpretation. The article continues Mr. Stone’s effort to explicate the Court’s distinction between “content-based” and “content-neutral” restrictions on expression.

Cass R. Sunstein
Naked Preferences and the Constitution, 84 Colum. L. Rev. 1689 (1984).

In this article, Mr. Sunstein argues that a number of constitutional provisions, as currently interpreted, are aimed at a single evil: the distribution of wealth or opportunities to one person or group instead of another on the sole ground that those benefited have exercised raw political power to obtain what they want. The commerce and privileges and immunities clauses, for example, are designed to protect out-of-staters from harms visited upon them by in-staters. Judicial protection is triggered by concern that in-staters are peculiarly likely to act on the basis of power rather than in order to promote some conception of the public interest. The equal protection clause generalizes this idea into an across-the-board prohibition on government decisions that cannot be supported by reference to some general public goal. Similar themes appear under the due process, eminent domain, and contracts clauses. Mr. Sunstein explores judicial interpretations of “naked preferences,” noting that there are significant changes over time and among clauses. The changes, he suggests, reflect decreasing judicial solicitude for private property and increasing attention to whether the political process has been genuinely deliberative rather than responsive to political power. Mr. Sunstein concludes that in spite of these differences, the prohibition of naked preferences is probably the most plausible candidate for a unitary understanding of the sorts of actions forbidden by the Constitution.

Mark C. Weber

This article examines several of the major requirements of state and federal law governing the public education of handicapped children. It also discusses the role of the psychologist in evaluating these children’s educational needs and providing counseling and therapy service to facilitate learning.

Hans Zeisel
The Limits of Law Enforcement, (University of Chicago Press, 1983).

When crime rates are high, citizens clamor for more and better law enforcement but Mr. Zeisel’s analysis of a New York City crime study suggests that this clamor is misdirected. Even though every 1000 committed felonies engender only 65 arrests and 35 convictions, Mr. Zeisel believes that the law enforcement system’s performance cannot be substantially improved. He suggests that increasing sentences eventually might reduce crime by about 10 percent but that because the U.S. homicide rate is 10 times higher than that of other countries, and the robbery rate 30 times higher, a 10 percent reduction through stiffer sentences would be irrelevant. Crime thrives in the nation’s ghettos, and Mr. Zeisel proposes a program of preventive law enforcement to combat it. He suggests that the first step should be the radical improvement of schools.
Memoranda

APPOINTMENTS

Faculty Appointments

James D. Holzhauer has been appointed Assistant Professor of Law, effective July 1, 1985. Mr. Holzhauer received his B.A. from New York University in 1970 and his J.D., magna cum laude, from the University of Michigan Law School in 1980. While at Michigan he was note editor of the Michigan Law Review. After graduating from law school, Mr. Holzhauer clerked first for Judge Robert A. Ainsworth, Jr., of the United States Court of Appeals for the Fifth Circuit and then for Chief Justice Warren E. Burger of the United States Supreme Court. Following his clerkship with Chief Justice Burger, Mr. Holzhauer was Visiting North American Lecturer at the School of Law, University of Warwick, England. In 1983, he joined the Washington, D.C. law firm of Bredhoff & Kaiser as an associate. His primary area of interest is labor law and collective bargaining.

Burton W. Kanter will teach a course on estate planning at the Law School during the spring quarter of 1985. Mr. Kanter received his J.D. from the Law School in 1952 and is a partner in the Chicago law firm of Kanter and Eisenberg.

David A. Strauss has been appointed Assistant Professor of Law, effective July 1, 1985. Mr. Strauss received his A.B., summa cum laude, from Harvard College in 1973, B.Phil. in Politics from Oxford in 1975, and J.D., magna cum laude, from Harvard Law School in 1978. While at Harvard, he served as developments editor of the Harvard Law Review. After graduation, Mr. Strauss clerked for Judge Irving L. Goldberg of the United States Court of Appeals for the Fifth Circuit. He worked from 1979 to 1981 in the Office of Legal Counsel of the United States Department of Justice and, since 1981, has served as Assistant to the Solicitor General.

FACULTY NOTES


Richard Helmholz, the Ruth Wyatt Rosenson Professor of Law and Director of the Legal History Program, spoke at a luncheon meeting of law school alumni in Houston on November 9, 1984. He returned to the same city January 17-20, 1985, to participate in a colloquium devoted to the early history of the American Republic. Mr. Helmholz also chaired sessions at the annual meetings of the American Historical Association and the American Society for Legal History.

Diane Wood Hutchinson and Dennis Hutchinson will be visiting professors of law at the Cornell Law School for the academic year 1985-86.

On September 11, 1984, Philip Kurland, Professor of Law and William R. Kenan, Jr., Distinguished Service Professor at the College, delivered a lecture to the Washington Institute for Public Policy Studies in Washington, D.C., on the roles of the Court and the Constitution in framing public policy. He spoke on variations of that subject on October 23 in the Woodward Court Lecture Series at the University of Chicago; on November 9, at a faculty seminar at the Cornell Law School; and on February 22, 1985, as the Sieben­ thaler Lecturer at Salmon P. Chase School of Law in Kentucky. On September 13, 1984, Mr. Kurland spoke to the Southern Conference of Attorneys General in Williamsburg, Virginia, on the states and the Supreme Court. He delivered the "Aims of Education" address to the incoming College class in Mandel Hall on September 25, and spoke about pre-law education to the Midwest Conference of Pre-Law Advisers at Northwestern University Law School on October 14. On November 9, 1984, he spoke to Cornell Law School students about recent church-state cases in the Supreme Court. He addressed Ithaca College students on the same subject on March 28, 1985. On December 14, 1984, Mr. Kurland spoke on "The Constitution and Citizen Responsibility" at a Freedom Foundation Symposium in Washington, D.C. On February
Easterbrook Appointed to U.S. Court of Appeals

Frank H. Easterbrook, formerly Lee & Brena Freeman Professor of Law, was appointed a judge of the U.S. Court of Appeals for the Seventh Circuit. Judge Easterbrook joined the faculty of the Law School in 1979 and in 1982 was appointed an editor of The Journal of Law and Economics.

After graduating from Swarthmore College (B.A., 1970) Judge Easterbrook attended the University of Chicago Law School (J.D., 1973) where he was Topics and Comment Editor of the Law Review. Following graduation he clerked for Judge Levin H. Camp-

bell. During the Carter administration, Easterbrook served as Deputy Solicitor General, arguing before the Supreme Court on seventeen occasions.

He is well known as a proponent of the law and economics approach to law begun by Henry Simon, Aaron Director, Edward H. Levi, and Ronald Coase at the Law School. Some commentators regard this school of thought as the most important post-World War II theoretical advance in the study of law.

Among a faculty renowned for its prolific scholarship, Judge Easterbrook distinguished himself as one of its most productive authors. While they were both on the University of Chicago faculty Judge Easterbrook co-authored with Judge Richard Posner a casebook, Antitrust: Cases, Economic Notes and Other Materials.

However, Judge Easterbrook is perhaps best known for his debate with David P. Currie, published in the fiftieth anniversary volume of the University of Chicago Law Review, about the most insignificant Supreme Court Justice.

Easterbrook resigned his professorship at the Law School in April to assume his judicial responsibilities. He will continue teaching as a Senior Lecturer.

16, 1985, Mr. Kurland received the American Bar Foundation's Research Award. His short acceptance speech was entitled "Words, Words, Words."

Mr. Kurland continues to be chairman of the ABA/American Newspaper Publishers Association Task Force on Law and the Press, and remains a trustee of the Deer Creek Foundation of St. Louis, Missouri. He also has been busily engaged as a member of Taxpayers Against the Burnham Harbor Site (TABS) trying to keep a proposed Chicago World's Fair from being held at a lakefront site.

On September 6, John Langbein, Max Pam Professor of American and Foreign Law, presented a paper, "The English Criminal Trial Jury on the Eve of the French Revolution," to a scholarly conference devoted to the comparative study of the history of the reception and transformation of the Anglo-American jury system on the European continent. The conference was sponsored by the Henkel-Stiftung of West Germany. On October 19, Mr. Langbein spoke to the National Academy of Sciences' Committee on National Statistics about the use of court-appointed witnesses in continental civil procedure. The meeting was held at the Center for Advanced Study in the Behavioral Sciences, Stanford, California. Mr. Langbein delivered a public lecture, "Torture and Plea Bargaining: A Medieval Perspec-

tive on a Uniquely American Problem," at a Marquette University conference on the historical and philosophical study of criminal justice, sponsored by the Mellon Foundation, on October 20. On January 6, 1985, he presented a paper at the annual meeting of the Association of American Law Schools in Washington, D.C. The paper contrasted the German and American civil procedural traditions, with particular emphasis on the differing roles of lawyers and judges in the investigation of questions of fact.

In June 1985, the 3rd Edition of Labor Law: Cases, Materials, and Problems by Bernard Meltzer, Distinguished Service Professor of
Law, and S. D. Henderson, will be published by Little, Brown & Company.

Gary Palm, Professor of Law and Director of the Mandel Legal Aid Clinic, has been elected chairperson of the Section on Clinical Legal Education of the Association of American Law Schools. He has also been appointed to the Skills Training Committee of the ABA's Section on Legal Education and Admission to the Bar and has been made a consultant to the International Symposium on Clinical Education sponsored by the University of California, Los Angeles (UCLA) and the University of Warwick, England, to be held in October, 1986.

Adolf Sprudz, Foreign Law Librarian and Lecturer in Legal Bibliography, has been awarded a research scholarship by the Swiss Institute of Comparative Law and will spend April, May, and June 1985 in Lausanne, Switzerland, beginning his work on a projected Guide to International Legal Research. Recently, Mr. Sprudz has served as a consultant to the IIT Chicago-Kent College of Law for the purpose of recommending appropriate collection development policies for the Library of International Relations, which has been absorbed by the IIT Chicago-Kent College of Law Library. Mr. Sprudz has also been serving as the Chicago-based member of the Board of Directors of the International Association of Law Libraries (IALL) and is organizing an IALL round table for the worldwide conference of the International Federation of Library Associations and Institutions to be held in Chicago on August 18-24, 1985. The IALL roundtable will focus on "Access to Information in International Legal Research," and will take place on August 20 at the Palmer House in Chicago.

Harry Kalven, Jr. Professor of Law Geoffrey Stone addressed a seminar sponsored by the American Political Science Association and the American Historical Association in August 1984. His topic was "Skokie: The Facts, the Law, and Democratic Theory." On October 20, he moderated a debate on capital punishment sponsored by the University of Chicago Debate Society. In late October and early November he worked actively with The Lawyers Committee for the Supreme Court, a group organized to heighten public awareness of the relationship between the outcome of the 1984 presidential election and the future makeup and direction of the Supreme Court. On November 12, Mr. Stone addressed a "mini-reunion" of the Law School Class of '79 on "The Present Direction of the Supreme Court." Mr. Stone delivered a paper on January 19, 1985, at the 22nd Annual Conference on Law and Contemporary Affairs at the University of Toronto School of Law. The paper's title was "Constitutions and Free Expression: The Canadian and American Experiences."

Cass Sunstein, Assistant Professor of Law and Political Science, spoke at the Legal Theory workshop at the University of Toronto on "Interest Groups in American Public Law." In January, he addressed the Association of American Law Schools conference in Washington, D.C. on welfare law.

Mandel Legal Aid Clinic Staff Attorney and Clinical Fellow Mark Weber participated in a panel discussion on "The Education of the Handicapped Act: An Update for Child Psychiatrists" at the annual convention of the American Academy of Child Psychiatry held in Toronto in October. In November, he participated in a panel discussion about "The Legal Rights of Children" at the annual meeting of the Illinois Psychological Association at Loyola University in Chicago.

Hans Zeisel, Professor Emeritus of Law and Sociology, was invited to critically review the National Research Council's report on the 55-mile-per-hour federal speed limit. His revisions greatly strengthened the argument for keeping the speed limit, which then became the recommendation of the authoring committee.

The Chicago Art Institute featured an exhibition of Eva Zeisel's work as a ceramic industrial designer.

LAW SCHOOL NEWS

Visiting Committee Meets

The annual meeting of the Visiting Committee of the Law School was held on November 13-14, 1984.

Dean Gerhard Casper discusses Law School curriculum with the Visiting Committee.
The program began with a discussion of changes in the Law School curriculum; Professors Douglas Baird, Mary Becker, John Langbein, and Geoffrey Stone were the panelists. Professor Walter Blum then spoke about building plans for the Law School. Following lunch with students in the Burton-Judson cafeteria, Chairman Ingrid Beall (J.D. '56) and other members of the Visiting Committee heard student presentations and the Wilber G. Katz Lecture by Professor Richard Epstein on “Defamation: Was New York Times v. Sullivan Wrong?”

On the second day of the program, Professor Geoffrey Miller, Mary Azcuenaaga (J.D. '73), Honorable Stephen Breyer, and Burton Kanter (J.D. '52) participated in a panel discussion on legal education and law practice. Following this discussion, the committee met in executive session with Dean Gerhard Casper. The program concluded with a faculty luncheon at which Professor Frank Easterbrook spoke about judicial review.

Tuition to Increase

Tuition for the 1985–86 academic year has been set at $10,920, a 7 percent increase over the present tuition level.

In a memo to the current students, Dean Gerhard Casper wrote “The costs of preserving and strengthening the quality of our educational programs are still advancing at a rate faster than that of the Consumer Price Index. . . . In spite of tuition increases over the last few years, it is still true that tuition covers only a portion of the educational expenditures per student.”

Dean Casper pointed out that for the Law School, 7 percent is the lowest rate of tuition increase in many years. He reported that scholarship support from all sources will go up more than 7 percent and added that those students who do not receive financial aid will continue to be the beneficiaries of alumni giving, endowed income, and grants to the Law School.

Casper Appointed to Holmes Committee

President Reagan has appointed Gerhard Casper, Dean of the Law School and William B. Graham Professor of Law, to an eight-year term on the five-member Permanent Committee for the Oliver Wendell Holmes Devise. The Permanent Committee, created by Act of Congress in 1955, directs the publication of a History of the Supreme Court of the United States, funded by the estate Justice Holmes left to the United States. Five volumes have been published so far.

Other members of the Law School faculty who have served on the Permanent Committee are Philip Kurland, Professor of Law and William R. Kenan, Jr., Distinguished Service Professor in the College. The citation refers to Mr. Kurland “as among the most learned and eloquent teachers in constitutional law and history,” and praises his “outstanding research in law and government.”

Mr. Kurland received his A.B. from the University of Pennsylvania in 1942 and his LL. B from Harvard Law School, where he was President of the Harvard Law Review, in 1944. He served as law clerk to Judge Jerome N. Frank of the U.S. Court of Appeals for the Second Circuit in 1944–45 and for Mr. Justice Felix Frankfurter of the U.S. Supreme Court in 1945–46. In 1950, after working for the Depart-

Annual Tax Conference Held

The 37th Annual Federal Tax Conference of the University of Chicago Law School was held on October 24–26, 1984 at the Midland Hotel in Chicago. The theme of the conference, which was attended by lawyers, accountants, and other interested in federal taxation issues, was “Sound Outer Planning Limits: How Far Should One Go in Planning Transactions Not of the Common Variety?”

In both formal presentations and panel discussions, speakers focused on various important and evolving areas of tax law and discussed planning of business arrangements to maximize tax advantages. The emphasis was on determining how far tax advisers should go in shaping arrangements to seek tax benefits. Among the conference speakers were three Law School alumni: Sheldon Banoff (J.D. '74), Burton Kanter (J.D. '52), and Howard Krane (J.D. '57).

William R. Kenan, Jr., Distinguished Service Professor in the College. The citation refers to Mr. Kurland “as among the most learned and eloquent teachers in constitutional law and history,” and praises his “outstanding research in law and government.”

Mr. Kurland received his A.B. from the University of Pennsylvania in 1942 and his LL. B from Harvard Law School, where he was President of the Harvard Law Review, in 1944. He served as law clerk to Judge Jerome N. Frank of the U.S. Court of Appeals for the Second Circuit in 1944–45 and for Mr. Justice Felix Frankfurter of the U.S. Supreme Court in 1945–46. In 1950, after working for the Depart-

ABF Award to Kurland

The Fellows of the American Bar Foundation have given the 1985 Fellows Research Award to Philip Kurland, Professor of Law and
Law School Inaugurates $20 Million Campaign

The Campaign for the Law School was officially announced on October 17, 1984 at a gala celebration at the Law School.

Following a reception on the Law School lawn, guests enjoyed a candlelit dinner in the Harold J. Green Lounge. The Master of Ceremonies for the evening was Edwin A. Bergman, Chairman of the Board of Trustees, and featured speakers were University President Hanna Holborn Gray, Campaign Chairman Howard G. Krane (J.D. '57), and Dean Gerhard Casper.

The 200 alumni and guests of the Law School included twenty members of the Campaign's planning committee and special guests Mr. and Mrs. Theodore Rosenson (Mrs. Ruth Wyatt Rosenson); Dino D'Angelo (J.D. '44); the families of J. Parker Hall and J. Parker Hall III; and representatives of the estate of Frank Greenberg (J.D. '32).

All were thanked for their magnificent support to this Campaign. The Dean took special pleasure in announcing the recent establishment of a Professorship by the law firm of Kirkland & Ellis.

Mr. Krane stated that gift commitments to the Campaign as of that evening totalled in excess of $14 million out of the $20 million Campaign goal, but reiterated that the "hard work was still ahead of us" in fulfilling the ambitious objectives delineated by this Campaign.

The Campaign's objectives include a building addition to the Law Library; faculty support for research and teaching; increased student financial aid; and additional ongoing support for the Law School and specifically major programs at the Law School; the Center for Studies in Criminal Justice; the Program on Legal History; the Law and Economics Program; and the Mandel Legal Aid Clinic.
Morris E. Feiwell, 1889-1984

Morris E. Feiwell, who received his J.D. from the Law School in 1915, died October 11 in Chicago. Mr. Feiwell was a founder of the law firm of Arvey, Hodes, Costello & Berman and of the American National Bank and Trust Co. He also founded the midwest chapter of the Friends of Hebrew University in Jerusalem and served as chairman of the America-Israel Cultural Foundation.

Mr. Feiwell was a life-long supporter of education and served as president of the Law School Alumni Association from 1955-59. In a letter to Mr. Feiwell's family, Edward Levi recalled Mr. Feiwell's impact on the school:

Without him there would have been no revival of the law school at the University of Chicago. There would have been no new law building. The developments of the last thirty-five years would not have taken place. It was Morrie who assembled a small group of alumni, smoothed their often ruffled feelings about the school, told me how to behave and had the vision of what might be accomplished. I know this was only a segment of Morrie's good works, but that segment was the one in which I was working and I could not have functioned without him. . . . His influence in the law school is enduring—that is one thing institutions can do for us when they are shaped by a wise hand. The hand was his. And it still is.

Born in Latvia, Mr. Feiwell came to Chicago in 1895. After graduating from the Law School, he and classmate Samuel Epstein began the law firm of Epstein and Feiwell and later hired two other young lawyers, Jacob Arvey and Barnet Hodes. Mr. Feiwell left the firm to work for Foreman Bank, which merged with the Strauss Bank to form American National in 1931. He was named a vice president in 1931; and he served as secretary until 1967, as a trust officer until 1972, and as chairman of the trust committee until 1977. As a specialist in corporate reorganization and utility financing, he helped reorganize a number of companies and continued to assist in their management. He was chairman of the executive committee of Indianapolis Power & Light Co. and a director of the LaClede Gas Co. of St. Louis and of the Tecumseh Coal Co.

Mr. Feiwell is survived by his wife, Mabel; sons, George and Robert; daughter, Elinor Jarrow; six grandchildren; and two great grandchildren.

STUDENT NOTES

Federalist Society Speakers Program

The Federalist Society of Law and Public Policy, which is dedicated to advancing the principles of limited government, individual liberty, and judicial restraint, brings many speakers to the Law School each year. In 1984, Federalist Society programs featured Paul Bator, Raoul Berger, John Cannon (J.D. '61), Bruce Fein, Associate Professor Dennis Hutchinson, Professor Norval Morris, John Noonan, Loren Smith, and Ernest van den Haag. Some speakers were cosponsored with other groups, and some visits were funded by the John M. Olin Foundation.

On February 6, 1985, the Honorable Ralph K. Winter of the United States Court of Appeals for the Second Circuit spoke on the causes and consequence of the growth of judicial power. Judge Winter, formerly of Yale Law School, was appointed to the bench by President Reagan in 1982.

Spring quarter speakers included Jeremy Rabkin of Cornell University and Justice William Rehnquist of the United States Supreme Court.

Student Musical “Return of the J.D.”


This original musical adventure comedy told the story of three law students (played by Gary Fordyce ’85, Jeannie Farrar ’85, and Susan Peck ’87), deep-frozen in 1984, who are discovered and defrosted in 2984 by Captain James Kirk (Bryan Anderson ’86) and the crew of the starship Free Enterprise. The law students discover that MBAs have taken over the universe and that all lawyers have been extirpated. With the help of the starship’s Wizard (Steve Wallace ’86), the three students become J.D. knights and go forth to do battle with the MBAs, who worship a diety called The Invisible Hand under the leadership of priestess June Moon (Mindy Recht ’86). Armageddon takes place in the courtroom of Judge Greylord (Placement Director Paul Woo) where the J.D. knights argue brilliantly and save the universe from the MBAs.

The show’s head writer was Michael Salmanson ’86, who also performed in several of the skits. Joshua Hornick ’85 conducted the music and Amy Kossow ’87 directed the actors. The musical numbers were choreographed by Linda Benfield ’85 and Craig Williams ’86. John Lingner ’86 was the producer. Many other students contributed sketches, music, lyrics, and even talent.
Hinton Moot Court Finalists Chosen

The four finalists in this year's Hinton Moot Court Competition were chosen on February 27. They are Barry Adler '85, Peter Krupp '86, Joshua Pickus '86, and Mindy Recht '86.

Thomas Fairchild, Senior Circuit Judge of the U.S. Court of Appeals for the Seventh Circuit, Associate Dean Douglas Baird, and Assistant Professor of Law and Political Science Cass Sunstein sat on the panel that read the briefs and heard the oral arguments of the eleven semi-finalists. They commented on the quality of all the presentations and commended the semi-finalists for a job well done.

The final oral argument will be heard in early May by a panel consisting of Justice William Rehnquist of the U.S. Supreme Court, Judge Charles Clark of the U.S. Court of Appeals for the Fifth Circuit, and Chief Justice Seymour Simon of the Illinois Supreme Court.

Stammtisch

Stammtisch, the Law School's weekly German table, continues to meet this year despite the absence of last year's conveners, Karen Canon (J.D. '84) and Rick Levy (J.D. '84), who are clerking for the Honorable Daniel Friedman of the U.S. Court of Appeals for the Federal Circuit and the Honorable Richard Posner of the U.S. Court of Appeals for the 7th Circuit respectively.

David Currie, Harry N. Wyatt Professor of Law, attends regularly, as do native German-speakers Joerg Esdorn '85, Wolfgang Ott LL.M. '85, Michael Macaluso '87, Gerald Kallenbach LL.M '85, and former admissions office staff-member Suzanne Skibiah. Enthusiastic nonnative speakers in attendance include Peggy Telscher '87, Ellen Dachauer '85, Doug Weinfeld '86, and this year's convenor, John Lingner '86.

New Student-Edited Law Journal to be Published Next Year

The Law School's second, student-edited law journal, the University of Chicago Legal Forum, will commence publication in 1986. The Forum, a yearbook, will differ from many other law journals in that it will offer a symposium on a different topic in every issue. Student comments will deal with topics in the same general subject area as the symposium.

Andrew Heaton '85 was selected Editor-in-Chief in November, 1984. Since then a managing board has been chosen, a budget drawn up, office space procured, and procedures for selecting members established. In addition, the topic for the Forum's first issue—international business—has been chosen and suggestions for comments have been distributed to interested students for research.

The Forum is also planning to host a conference at the Law School focusing on the first issue's symposium topic. The conference has been tentatively scheduled for October 1985.

Gay and Lesbian Group Formed

Gay and lesbian law students have formed a group to represent the interests of gay people in the Law School. The group maintains contacts with other gay law student groups in the U.S. and with the major organizations doing trial and appellate work on behalf of homosexuals.

The gay and lesbian law students group has organized social events, maintained a bulletin board for posting information about legal developments affecting homosexuals, and worked with the Law School's admissions and placement offices toward the inclusion of sexual orientation nondiscrimination statements in the Law School application and in material distributed to on-campus job recruiters.
Chicago Law Foundation Raises Funds, Starts Street Law Program

The Chicago Law Foundation, which promotes and supports legal services in the public interest, recently completed its fundraising drive among Law School faculty and students. This year's contributions exceeded last year's by 20 percent. Law firm and alumni fundraising projects were begun in February, 1985. The Foundation hopes that Chicago-area law firms will participate in matching grant or challenge grant programs, following the lead of Mayer, Brown and Platt which last year matched the donations of its 11 summer associates.

In addition to its fundraising activities, the Chicago Law Foundation has begun a "street law" project in which Law School students teach neighborhood youths basic principles of law and legal reasoning. The purpose of the project is to have law students share the knowledge they gained at the Law School with members of the Hyde Park community. Both teachers and students have been enthusiastic about the project, and the Foundation is planning to offer it in local high schools next year.

The Foundation also funds a Public Interest Grants Program that makes regular grants to law students for summer or school-year employment in public-interest related jobs. Grant recipients were selected in March.

Hughes Serves as Student Ombudsman

Mark Hughes '85 is serving as the University's student ombudsman this year. According to Hughes, the ombudsman is someone to whom students can go with their problems after normal channels have failed. The ombudsman investigates the problems—such as grade appeals, sexual harassment, housing complaints—and helps solve them.

Before matriculating at the Law School, Hughes worked as a research technician, a physical education instructor, a Peace Corps math and science teacher in Liberia, and an intern in a public and appellate defenders' office in Urbana and Chicago. His experience in the Peace Corps in particular helped convince him that institutions like the ombudsman's office play a key role in problem solving.

"One of my lasting impressions from working in Liberia is that institutions are important," he says. "If they don't work well, things don't get done."

Law Women's Caucus is Active

The Law Women's Caucus, a student group that addresses the concerns of women at the Law School, sponsored a variety of events this year. On November 1, 1984, approximately 30 Caucus members attended a luncheon with Law School alumnae. The theme of the luncheon was "Coping: Children, Careers and Life." On November 10, the Caucus held an interview techniques workshop for first-year women students; the instructors were Brigitte Bell (J.D. '79) and Marian Jacobson (J.D. '72). Later in the month, Joan Meier (J.D. '83), an associate at Jenner & Block, addressed a Caucus-sponsored lunchtime workshop on domestic violence.

During the year, Caucus members designed a maternity/paternity leave survey, which was sent to 500 law firms. The results of the survey will be compiled and made available to all Law School students.

On February 28, 1985, the Caucus presented a panel discussion on combining a legal career with motherhood. The panelists, including Brigitte Bell (J.D. '79), Inge Fryklund (J.D. '79), Barbara Goering (J.D. '77), Associate Professor of Law Diane Wood Hutchinson, and Deborah Morris (J.D. '77), talked about how having children has affected their professional lives. They also answered questions about maternity leave, child care, the impact of motherhood on partnership consideration, part-time work, and alternative forms of legal practice.


During the spring quarter, the Caucus sponsored two panel discussions, one about women's pension rights and the second entitled "Severely Handicapped Infants: Who Should Decide if Treatment is to be Withheld?"

Before leaving on a trip to Hawaii, Professor Spencer Kimball was given a rousing send-off by his students, complete with leis, aloha shirts, and the theme from Hawaii Five-O.
Manager Bernie Meltzer took his place in baseball annals beside such miracle managers of the past as George Stallings and Leo Dur- ocher, and of the present such as Al Lopez, when he led the Faculty to a 18 to 17 win over an all-star Mead House law-student team in a nine-inning softball battle at Burton-Judson Field, June 1, 1957. The game, a quin­ tennial affair, was a remarkable reversal of the apparent trend established in 1952, when the student team won 64 to 12. Each team scored three runs in the first inning, and the game then steadied down into a pitcher’s duel. Man­ ager Meltzer when interviewed later attributed the team’s success to several factors: the increased maturity and judgment of the Faculty, the psychological desire to win, and the temporary appointment to the Faculty of some seven able-bodied students.

One rather remarkable feature of the game was that the Faculty team played errorless ball throughout and frequently got their hands, or other parts of their body, on hard chances and succeeded in deflecting them. Another rather novel feature of some interest from the legal point of view was that the Contract Termination Act of 1944 was held to apply, and as a result the score was at several points renegotiated. A knotty issue was presented late in the game when one of the students came to the plate with a cricket bat. The jurisdictional conflict was referred to Brainerd Currie, who was play­ing second base at the time, and he ruled that the baseball rules still controlled.

Observers who were present on behalf of the University Admin­ istration are reported to have come away much impressed and favoring lowering the compulsory retire­ ment age at the University.

Among the Faculty players who will be back next season are Currie, Dunham, Lucas, Kalven, Zeisel, and Meltzer (mgr.).

R H E
Faculty..... 302 402 241 18 23 0
Students..... 304 211 231 17 20 6

Aronberg was appointed to the Faculty to run for Currie in the sixth; Claus was appointed to the Faculty to bat for Dunham in the eighth. Doubles: Meltzer, Currie, Alex. Triples: Lawrence, Kline, Radley. Home run: Alex. Fingers batted in: Kalven (1), Zeisel (1).

A lawsuit filed against the University immediately after the game shows that the students are as eager for litigation as the faculty for exercise. The plaintiffs in the action were those students who had been appointed as Lecturers in Law from 2:00 P.M., June 1, 1957, to 11:59 P.M., June 1, 1957. They have filed a class action for compensation on a quantum meruit basis. The law Faculty, blazing with confidence, has advised the University to forego several obvious defenses to liability; to offer to determine the amount thereof, if any, in the following manner: The Faculty will play another game against the students without ad hoc lecturers, but with Sheldon Tefft as umpire. If the students get more runs than the Faculty, they shall as a group be entitled to a sum represented by the excess of runs multiplied by $1.32. (Cf. any section of the Revenue Act of 1954.) The plaintiffs, for reasons which are plain, have not accepted this offer. It is not easy to predict how the litigation and negotiations will come out. But readers of this corner will be promptly advised of all developments.
Alumni Notes

Events Across the Country

In cities across the country, faculty members spoke to graduates.

In October, Professor Norval Morris addressed our New York City graduates at the offices of Douglas Kraus (J.D. '73), president of the New York Chapter. Mr. Morris discussed "Madness and the Criminal Law." Also representing the Law School at this event was Assistant to the Dean Roberta Evans (J.D. '61).

In January, Dean Gerhard Casper was the guest of the Dallas Chapter at a luncheon organized by Dallas Chapter president James onohoe (J.D. '62). Over 55 percent of our Dallas graduates attended.

Houston Chapter president Mont Hoyt (MCL '68) was busy this winter. Professor Richard Helmholz, Chairman of the Law School's Legal History program, spoke at a luncheon in November, and Dean Gerhard Casper was the featured speaker at a January luncheon.

Alumni in the St. Louis area heard Dean Casper speak in November about "The Old and the New Law School" at a luncheon arranged by Henry Ordower (J.D. '75), St. Louis Chapter president.

Professor Bernard Melzer visited Minneapolis-St. Paul and, at a luncheon organized by Duane Krohnke (J.D. '66), addressed alumni on the topic of "The New Reag an NLRB and the Old Hot Seat."

In January, Washington, D.C. alumni had an opportunity to hear Douglas Ginsburg (J.D. '73), Administrator of Information and Regulatory Affairs at the Office of Management and Budget, discuss "OMB Review of Regulation." In May, Dean Casper shared his thoughts about the Law School with Washington, D.C. alumni.

Professor Walter Blum visited with our graduates in the Pacific Northwest in March. Seattle Chapter president Thomas Fitzpatrick (J.D. '76) and Portland Chapter president Richard Botteri (J.D. '71) each arranged luncheons at which Professor Blum presented "Unpublished Footnotes About the Law School."

Assistant Dean Holly Davis brought news of the Law School to a small group of University of Chicago graduates at a luncheon at the Connecticut State Bar meeting in New Haven in May.

Chicago Loop Luncheon Series

The Loop Luncheon series sponsored by the Chicago Chapter of the Law School's Alumni Association continues to be a popular alumni event. The luncheons meet in the Board of Trustees Room at One First National Plaza under the leadership of Chapter President Michael Schniederman (J.D. '65), Vice President Judge Kenneth Prince (J.D. '34), and Loop Luncheon Committee Chair Grace Clarke (J.D. '79).

Judge Abner Mikva (J.D. '51) began this year's series with a talk entitled "Good-bye to Opinions That Look Like Law Reviews."

Professor Dennis Hutchinson, co-editor of The Supreme Court Review, discussed "The Emergence of the O'Connor Court?"

The fall series closed with a capacity crowd listening to Burton W. Kanter (J.D. '52) discuss "The Natural Way to Individual Tax Planning: Investment Orientation."

In the winter, Morton Holbrook (J.D. '72), County Officer of the Office of China Affairs at the State Department, presented a talk on "US/China Relations: Past and Prospects."

Jerry Vainisi, General Manager of the Chicago Bears, also discussed the past and prospects for the future when he offered "Some Reflections on Football."

The spring series featured Howard Trienens, General Counsel for AT&T, presenting his view of the "Dissolution of AT&T."

Many University of Chicago Law School graduates and their clients interested in the redevelopment of Chicago's West Loop area attended the April luncheon, entitled "West Side Story." The featured speakers were Daniel E. Levin (J.D. '53), co-developer of Presidential Towers, and Robert Wiggs, Executive Director of the West-Central Association.

Professor A. W. B. Simpson ruminated about the history of "Cannibalism and the Common Law" at the May luncheon, which featured a vegetarian meal.

Scheduled to speak at the last luncheon of the 1984-1985 series on June 19 is Illinois States Attorney Richard Daley.

Graduates having questions about the luncheon series or wishing to join the Loop Luncheon committee should contact Assistant Dean Holly Davis.

Other Chicago Events

The Loop Luncheons were not the only events for Chicago-area graduates sponsored by the Law School. During the first two weeks of November alone, the Law School sponsored four events open to alumni.

On November 1, the Law School and the Law Women's Caucus co-sponsored a luncheon at which alumnae and women students discussed the challenges and rewards of being a lawyer.

On November 5, Gary Palm and the Mandel Legal Aid Clinic Attorneys discussed the clinic's current activities and cases at a luncheon with alumni.

The Class of 1979 held an informal reunion luncheon on November 12. Professor Geoffrey Stone briefly addressed the group but most of the luncheon was devoted to socializing and catching up with classmates. (Woe to those who did not attend.) Wine and soft drinks were furnished courtesy of the Law School.

Class Notes Section – REDACTED

for issues of privacy
Ashcroft Elected Governor of Missouri

John Ashcroft (J.D. '67) was elected governor of Missouri on November 6, 1984. He received 57 percent of the vote and carried 107 of 114 counties on his way to one of the largest Republican gubernatorial victories in Missouri history.

After receiving his J.D. from the Law School in 1967, Mr. Ashcroft returned to Missouri to teach at Southwest Missouri State University in Springfield and to practice law with his wife, the former Janet Roede, who received her J.D. from the Law School in 1968. The Ashcrofts also co-authored two law textbooks for use in junior colleges and business schools, College Law for Business and It's the Law. They have three children: Martha, fifteen, Jay, eleven, and Andrew, seven.

Described by those who know him as "a straight arrow," Mr. Ashcroft does not smoke, drink, or swear, and is recognized throughout Missouri for his talents as a gospel singer and songwriter.

In 1972, Mr. Ashcroft was defeated in a run for Congress, but a year later he was appointed to fill an unexpired term as state auditor, and his political career took off. He was appointed an Assistant Attorney General in 1975, and in 1976, he was elected Attorney General. Mr. Ashcroft won his reelection bid in 1980 by over half a million votes, the largest margin by which a Republican had ever been elected to a statewide office in Missouri, and that showing combined with his record as Attorney General, boosted him to the governorship in 1984.

'71 Shimon Shetreet is the editor of Judicial Independence: The Contemporary Debate, which is to be published this year by Martinus-Nijhoff, Holland. He has also been elected a member of the International Association of Procedural Law and appointed General Rapporteur, 12th International Congress of Comparative Law, to be held in Australia in 1986.

Urs Benz is now a senior vice-president of Handelsbank N.W. in Zurich, Switzerland.

Bart Lee and his new wife honeymooned in the far east and also looked into the China trade. "Lots of opportunities," he writes, "but they have no law!"

Nancy Albert-Goldberg of the Evanston Law Center has written and published a book entitled Insider's Guide to Divorce in Illinois: A Practical Consumer Divorce Manual. She reports that it is selling well in the Chicago area.

'72 William Herzog was elected state's attorney of Kane County and took office in December. He has been assistant state's attorney for twelve years. Mr. Herzog is married, and his wife Barbara is a high school librarian and German teacher. They have a five-year-old daughter named Anneliese.

Aaron Hoffman writes from Israel that he has passed the bar, completed his apprenticeship, and has been admitted to membership on the Israeli Chamber of Advocates. He now works in the Tel Aviv office of Yigal Arnon & Co., one of the country's largest law firms. The firm works with American companies that are investing or doing business in Israel and also represents Israeli companies doing business or raising capital in the United States and Europe. Mr. Hoffman would enjoy hearing from classmates at his new address: Dubnov Street 3, #13, Ra'anana, Israel.

Besides addressing the Chicago Alumni Association's January Loop Luncheon, Morton Holbrook, who is country officer in the Office of China Affairs of the U.S. Department of State, spoke to Law School students on January 11. He discussed relations between China and the United States and whether law makes a difference.

After working as a technical manager at the Summer Olympic Games, Neal Millard joined the firm of Jones, Day, Reavis & Pogue in its Los Angeles office. He continues to practice real estate, banking, and international law.

In October, Robert Richter was appointed by President Reagan to be a judge of the Superior Court of the District of Columbia. He had worked since 1978 as assistant chief for operations in the Public Integrity Section of the Criminal Division of the U.S. Department of Justice. Mr. Richter was sworn in by Justice Blackmun, for whom he had clerked.

Robert Riley recently took a position as vice president and general counsel of Meijer, Inc., a retail chain based in Grand Rapids. He and his wife Paula and daughters Kathleen and Jenny have moved to Grand Rapids from Arlington Heights, Illinois. Mr. Riley was formerly assistant general counsel of Jewel Companies, Inc.
Shegog Profiled

Hermia Shegog (J.D. '80), was profiled in the October, 1984 issue of California Lawyer magazine. That profile is reprinted here.*

Hermia Shegog had it made, if any black law school graduate did in the summer of 1980. This Baptist minister's daughter had a degree from the prestigious University of Chicago School of Law and an outstanding record.

Shegog, one of seven blacks in her law school class, clerked at Chicago's influential Kirkland and Ellis the summer following her first year. After her second year, Shegog had 13 summer job offers to choose among. She decided to split the summer between Davis Polk and Wardwell in Manhattan, and Gibson, Dunn & Crutcher's Los Angeles office. When Shegog graduated from law school a year later, she had job offers from all three firms for which she had clerked.

Shegog says that a big factor in her decision to join Gibson, Dunn was the presence of two black women lawyers at the firm: partner Aulana L. Peters and associate Candace Cooper.

Shegog elected to work in the firm's Century City office because it is smaller than the downtown Los Angeles office. The first year she worked closely with George Curtis, a senior associate, now a partner. "He gave me excellent training," she says. "He trusted me, and I trusted him."

Curtis set her to writing points and authorities and demurrers, then motions for summary judgment—the usual work of a first-year associate. Shegog put together the papers for a temporary restraining order and a preliminary injunction in a patent infringement case. She lost the TRO but won the preliminary injunction. "I'm particularly proud of that," Shegog says. "I didn't even know where the federal courthouse was when I started." Eventually Shegog was billing her time at $135 an hour. "My father still can't quite grasp that his baby daughter is a lawyer and making so much money," she says.

But Shegog lost her mentor when Curtis moved to Gibson, Dunn's Denver office. In addition, Aulana Peters left the firm to accept a nomination to the Securities and Exchange Commission, and Candace Cooper was appointed to the Los Angeles Municipal Court. For various reasons, other black lawyers also left the firm, leaving Shegog one of 14 minority lawyers among Gibson, Dunn's 412 lawyers in 12 offices—and the only minority woman.

In her fourth year with the firm, Shegog began questioning her priorities. A partnership was four or five years away. "In order to make partner," says Shegog, "I would have had to make a change in my lifestyle. That jewel [a partnership] meant putting work before God, family and bar association activities. One thing Aulana told me was, "Mia, ya gotta want it."

Making partner is also a political thing, says Shegog, and she lacked a sponsor. "It's not just ability, but how much the partners perceive of your ability. You need somebody to speak up for you in partnership meetings."

Furthermore, says Shegog, she felt alone. "I was always aware of my difference. I truly didn't think I would get over the feeling that I was different. I don't want to assimilate totally," she explains. "I want to live in two cultures."

Shegog thinks she could have continued to cope with the loneliness: "If you are a minority and a high achiever," she says, "you are always just one or two. I've always been alone." But the demands of the job combined with the isolation were too much, says Shegog. So last June, she resigned her $55,000-a-year position at Gibson, Dunn to accept a one-year appointment as a visiting lecturer at UCLA's School of Law. She is teaching first-year legal research and writing, and assisting in a trial advocacy program. She also has begun a two-year term as president of the 275-member Black Women Lawyers Association of Southern California.

"I am looking at teaching as something I may want to do," says Shegog, "and I want the clinical experience of the advocacy program." Later, she says, she may join the legal staff of a public agency to see if trial work is as exhilarating as she expects. Then she may form her own firm, or perhaps even return to Gibson, Dunn.

By her count, if she rejoined the firm today, the number of black associates at 412-lawyer Gibson Dunn & Crutcher would swell to four.

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Ron McFall (Minneapolis) also tied the knot on December 8. Ron met Miriam Henderson at Gary and Pam Stern's wedding in Chicago last June, just after graduation. Miriam has an education degree from the University of Michigan. That leads to some interesting household "discussions" when the Big Blue and Ron's Iowa Hawkeyes compete in Big 10 sporting events.

Fritz Rohlfing (Honolulu) and his wife Deon were blessed with a baby girl last June. Fritz reports that little Renate Tsuyako enjoyed her first Christmas immensely—especially the wrapping paper!

Miscellaneous other newsy tidbits: Lee Liberman and David McIntosh (Los Angeles) are still nurturing the Federalist Society, which is growing by leaps and bounds. The 1985 Symposium was held in Washington, D.C., and provided a number of classmates with the chance to enjoy a refresher course in Constitutional Equal Protection law, as presented by Cass Sunstein.

Dan Burd (Washington, D.C.), is settling in at the Federal Reserve Board and learning to love the "other" coast. Patricia "Patty" Wagner (Washington, D.C.) has given official notice that even though she now wants to be known as Patricia, she hasn't changed a bit. Elisabeth Robinson (Washington, D.C.) is doing well. She's been involved in the legislative side of environmental work (what else do Washington-based firms do?), and also is involved in a number of projects that frequently require her presence in California. Edwin and Mary Sheila Wheeler (Washington, D.C.) have bought a house. And guess who was seen at one of the Inaugural Balls? Ron Schy (Washington, D.C.) and his new wife Andrea.

Mark Holmes (New York, New York) is enjoying himself but working hard; the partners put him on call even when he is out of town. Bob Clark (Chicago) is litigating as well; he's bought himself a condo on the trendy near north side.

Todd Young (Chicago) ventured into politics last November. He served as an election judge during the Presidential election and is threatening to write a book about his experiences.

Eric Friedler (Chicago) is still playing tennis, and playing well. He recently won yet another first place doubles trophy, this one in the 1985 Illinois Invitational.

A story about Joan Meier (Chicago) appeared in the Chicago Tribune not so long ago. Apparently she has assisted (which probably means she has researched and written all the documents) in an Illinois Circuit Court case on behalf of the Illinois Coalition Against Domestic Violence. The organization is defending a law which says the state's network of shelters for victims of domestic violence should be funded by a surcharge on Cook County marriage license fees. Among other things, Joan's brief reportedly argues that the funding method is appropriate, citing evidence that married women run the highest risk of being assaulted and claiming that the institutions of marriage actually encourage a husband to abuse his wife.

Let me know what's new with you. . . .

'84 Class Correspondent: Clifford Peterson, Paul, Weiss, Rifkind, Wharton & Garrison, 345 Park Avenue, New York, NY 10154.

This is all partnership news. Joan Lesnick reports that Janet Fisher and David Plache were totally wed in Pittsburgh last November. Joan, a well-known authority on parties, says it was a good one. Farther west, Pam Rolnick and George Schneider have also decided, after a whirlwind courtship, to get married. Further news is awaited. As for newspapers, a recent headline in the New York Times sounded a little surprised: "Cathy Klema, a Lawyer, to Wed." Hey, we get out of the office sometimes. The announcement hedged a little on the groom, saying that Dave ('85) Resnick was expected to graduate this spring (we figured it was a sure thing). But no doubts whatever about the wedding.

Deaths

1909
Norman H. Pritchard
March 15, 1985

1927
Meyer J. Myer
February 14, 1985

1930
Frank A. McKinley
October 11, 1984

1931
Myron D. Davis
November 24, 1984

1932
William H. Leigh
November 19, 1984

1933
Norman B. Eaton
November 23, 1984

1935
Dominic A. Tesarbo
March 1984

1938
Hyman M. Greenstein
September 30, 1983

1948
James N. Lesparre
March 1984

1951
Ernest Walton
September 1983

1956
James O'Bryan

1978
Richard L. Maddox
November 20, 1984