The Class of 1938

by Richard James Stevens, JD '38

It looks like the Class of 1938 has grown into a group of good, solid, tax-paying, child-rearing, mortgage-plastered citizens. Of course this conclusion is based on the incomplete evidence of thirty-eight questionnaires returned. Perhaps some of our experts in the analysis of statistical evidence, such as Harry Kalven, Jr., who has been working night and day, through courtesy of the Ford Foundation, on a massive study of the functioning of the jury system, or Paul Schwiebert, Director and Actuary for United Insurance Company, can point out the glaring fallacies in this conclusion. As of now, however, on the evidence at hand, that's about the way it looks.

Take this matter of offspring, for example. The thirty-eight who were foolhardy enough to answer the questionnaire, admitted to a total of eighty-seven children and two grandchildren—an average of 2.34 descendants each. Frank Mahin is the only proud grandfather in the class, boasting of two grandchildren—one girl and one boy. Three of us are neck and neck in the children derby, with five each—Thomas Megan, Conway Ashton and Richard James Stevens. Lee Shaw, Melvin Cohen and John Lynch are right on their heels with four youngsters each. Nine are in the "show" position, with three each—Bob MacDonald, Frank Mahin, William Pettigrew, Homer Rosenberg, Donald A. Morgan, Arthur B. Sachs, John Canright, Harry Kalvin, Jr., and Lydia Levinson Rashman.

Apparently, we like the practice of law. Twenty of us are active in the practice and almost all of the twenty are either partners or have their own individual practice. Sixteen of the twenty are in firms. Robert MacDonald (Seyfarth, Shaw, Fairweather & Geraldson of Chicago); Henry Hill (Mayer, Friedlich, Spiess, Tierney, Brown & Platt of Chicago); Richard F. Mullins (Arm & Mullins of Wichita); Melvin Cohen (Leonard M. & Melvin Cohen of Chicago); Lee C. Shaw (Seyfarth, Shaw, Fairweather & Geraldson of Chicago); Harry Schulman (Perlman, Rubin & Schulman of Chicago); Donald A. Morgan (Davis, Morgan & Withrell of Peoria); Willis E. Parkinson (Parkinson & Stewart of Glenwood Springs, Colorado); Zalmon Goldsmith (Petersen & Goldsmith of Aurora); Sheldon E. Bernstein (Newmeyer & Bress of Washington); Irwin J. Askow (Askow and Stevens of Chicago); Maurice Rosenfield (Friedman, Zoline & Rosenfield of Chicago); John R. Lynch (Robertson & Lynch of Lafayette); Marcus Cohn (Cohn & Marx of Washington); Robert A. Crane (Hubachek & Kelly of Chicago); Richard James Stevens (Askow and Stevens of Chicago).

Four of us have our own firms: Franz M. Joseph (New York); Homer E. Rosenberg (Chicago); Arthur B. Sachs (Chicago); John R. Canright (Lanikai, Oahu, Territory of Hawaii).

Six of us are prominent in the insurance field: Frank M. Mahin is Branch Claim Manager for Lum­bermen’s Mutual Casualty Company in Louisville; Conway A. Ashton is office attorney for Beneficial Life Insurance Company, Salt Lake City; Stanford Miller is Vice President of Employers Reinsurance Corporation in Kansas City, Missouri; Walter F. Ber­dall is Claims Manager for Allstate Insurance Company, Atlanta Branch; Paul W. Schwiebert is Director, Vice President and Actuary for United Insurance Company of America; John F. Shallenberger is Man­ager of Capitol Life Insurance Company in Denver, Colorado.

Six of us have positions with corporations: Thomas I. Megan is General Attorney for the Chicago, Rock Island and Pacific Railroad Company in Chicago; Warren R. Kahn is Vice President of Harry Alter Company in New York; Roger A. Baird is General Attorney and Assistant Secretary for Kimberly-Clark Corporation in Neenah, Wisconsin; Myron L. Duhl is Assistant Secretary of Eko Products Company in Chicago; William S. Pettigrew is Patent Attorney for General Motors Corporation in Detroit; Robert E. Haythorne is counsel for American Marietta Company in Chicago.

Only two of us teach law full time: Quintin John­stone is Associate Professor of Law at Yale Law School; Harry Kalven, Jr., is Professor of Law at the University of Chicago, in addition to being Director of the Law School Jury Project. Several of us have dabbled in teaching on occasion: Henry L. Hill has lectured on Aviation Law, his specialty, at North­western University; Franz Joseph has been Professor of Law at Institut de Droit Compare; Irwin J. Askow has taught Business Law at Northwestern University; Maurice Rosenfield has lectured at the University of Chicago Law School.

Only three of us presently are active in government work, but their activity has been enough to make up for the rest of us. Marie Cole Berger has been Assistant Solicitor with the Department of Agriculture; Senior Attorney for the OPA; active in the office of Foreign Relief and Rehabilitation of the State De­partment; Acting Chief of the Distribution Section of UNRRA; attached to the Headquarters of the UNRRA Balkan Mission at Cairo, Egypt; in December of 1944 she was wounded by tank fire in Athens. She served as Foreign Affairs Officer in the Office of dependent Area Affairs and later was appointed At­orney for the Point Four Program in the Near East and Africa Region, finally serving as Chief of the
We note with great pleasure the continually increasing number of alumni who have become members of the judiciary. AXEL J. BECK, JD’22, of Elk Point, South Dakota, has been appointed United States District Judge. Judge Beck, who has practiced law in South Dakota since his graduation, has been Republican National Committeeman from that state for the past ten years. E. HAROLD HALLOW, JD’30, has been appointed a Justice of the Supreme Court of Wisconsin. Justice Hallows, formerly a member of the firm of Hoffman, Hallows and Cannon, is a past president of the Wisconsin Bar Association. He is a member of the House of Delegates of the American Bar Association, and has for many years taught in the law school of Marquette University.

ARTHUR J. MURPHY, JD’22, recently became a member of the Illinois Appellate Court. After many years of private practice in Chicago, Judge Murphy served as a Judge of the Superior Court of Cook County. Probably the youngest judge among the School’s alumni is L. HOWARD BENNETT, JD’50. After practicing in Minneapolis since his graduation, Judge Bennett recently became a member of the Municipal Court of that city. Doubtless the most colorful judicial office held by an alumnus is that now filled by PHILIP R. TOOMIN, JD’26. After an extensive period of private practice in Chicago, he was recently appointed a Justice of the High Court of the Trust Territory of the Pacific Islands. His Court currently sits in Truk, in the Carolines.

At the annual meeting of the Women’s Bar Association of Chicago, Professor BERNARD MELTZER, JD’37, acted as Chairman of a panel discussion of “Recognition Picketing.” Among other participants in the panel were LEE SHAW, JD’38 and ABNER J. MIKVA, JD’51.

DONALD L. HESSON, LLM’42, writes that he is now a member of the English Bar, and in practice as a Barrister in London, where he occasionally sees ALBERT H. ROBBINS, JD’23, who has been in practice in both England and the United States.

Dean Levi at a recent luncheon meeting of New York. The meeting was arranged by George B. Pidot, ’30.

The Fifth Annual Alumni Fund Campaign is now under way. Shown above are, left to right, J. Gordon Henry, ’41, Co-Chairman; Dwight F. Green, ’12, Honorary Chairman; and Bernard Nath, ’21, Chairman.

Class of 1938

East Africa Region. In 1954 Marie was granted the Rockefeller Public Service Award for outstanding public service. Under this award she spent approximately one year in Samoa and other Pacific Islands. Presently she is back in Washington on the staff of the Regional Director for the Near East and South Asia of the International Cooperation Administration as Operations Officer. Quite a colorful career!

Karl E. Lachmann also has had an interesting government career. He was Assistant Solicitor to the Department of Interior; Special Attorney at the Office of Price Administration; Chief of International Tax Section, Fiscal and Financial Branch, Bureau of Economic Affairs, United Nations; was in the private practice of law in Arlington from 1940 to 1943; was Prosecuting Counsel at the Nuremberg trials; Deputy Executive Secretary of the United Nations Conference on the Declaration of Death of Missing Persons, Lake Success, in 1950; was Secretary, Technical Assistance Conference on Comparative Fiscal Administration in Geneva, 1951; and presently is Chief of International Tax Section Fiscal and Financial Branch, Bureau of Economic Affairs, United Nations Secretariat. He is a member of the American Economic Association; American Society of International Law; National Tax Association; Society for Comparative Legislation and International Law, England; Societe
protecting the employment of the non-union minority and of insuring that they are fairly represented.

Let me turn to two considerations which complicate my argument. First, union dues are used to finance activities which are remote from collective bargaining and which also may be opposed by employees forced to finance them. I refer primarily to political activities and related activities by which unionism seeks to affect governmental action and to advance its idea of the good society. I recognize that the problem here is especially acute for the non-union member, who lacks even the theoretical possibility of shaping the union's official position. But the problem is also important for employees who belong to the union because of its bargaining activities and in spite of its political activities. The problem involved thus affects all who finance union activities, and it should, I believe, be handled as a general problem, rather than by way of a prohibition of the Taft-Hartley union shop.

The second complication is union corruption, which is now being urged as an independent reason for such a prohibition. Compulsory dues naturally aggravate the corruption problem because they increase the loot and reduce the ability of members or dues payers to protest by withholding financial support. But, again, corruption is a general problem affecting both the majority and the dissenting minority. And, again, I believe that is should be treated as a general problem and should not be attacked by way of the Taft-Hartley union shop.

Before concluding, I should like to make two general points, which may help to put the right-to-work controversy in proper perspective. First, I doubt that "right-to-work" laws are significant in relation to the problems raised by the concentration of power in centralized unions which can substantially influence wage policies on an industry-wide basis. Union security or compulsory union arrangements are, as I indicated earlier, more significant as a consequence, than as a cause, of such power. The railroad unions are a case in point. Although the Railway Labor Act until 1951 barred all such arrangements those unions grew in numbers and did not lag behind in bargaining. The legal remedies for the power of the centralized national unions—if there are any wise remedies—will have to be much more heroic than right-to-work laws.

Although the second point may sound ungracious, it should not be suppressed. Exponents of "right-to-work" laws should consider whether their insistence on freedom of occupational choice and the dignity of the individual may not be excessively specialized. To take only one example, they may wish to consider the relationship of restrictive employer hiring policies as well as FEPC legislation to the symbol of individual freedom which they invoke. Otherwise, they will be open to one of two unpleasant charges: First, that they are exploiting our traditions of freedom merely to snipe at the union movement; or, secondly, that they are blindly ignoring the many areas of economic life where the protection of the dignity of the individual is still unfinished business and where some employers are not using their economic and moral power to get on with the job.

Class of 1938—
Continued from page 5

de Legislation Comparee, France; and International Institute of Public Finance, Paris.

Bert Ganzer presently is Supervising Investigator for the United States Civil Service Commission. He was Military Government Court Officer in Germany for two years.

Others of us occasionally have been active in government work. Quintin Johnstone was attorney for the OPA; John B. Camright was Deputy Attorney General for the Territory of Hawaii for six years; Henry Hill was in the General Counsel’s Office of the Civil Aeronautics Board in Washington for five years; Franz Joseph has been General Counsel and Director of American Council of NATO; Governor of the Atlantic Union Committee; and Chairman of the American European Foundation. Willis Parkinson has been Special Agent for the FBI. John Lynch has occasionally served as Special Judge; Frank Mahin is Police Judge at Pewee Valley, Kentucky.

Our legal ability is evidenced by our success in staying out of the army. Fifty percent of us successfully evaded (or do I mean avoided?)—we never did get to Income Taxes in Prof. Crosby’s course on Taxation) military service. Those of us who did serve, did so with distinction. Dick Mullins, Bob Haythorne and John Canright achieved the rank of Lt. Colonel; Mel Cohen and Walter Berdal were Majors; Art Sachs, Sheldon Bernstein and Roger Baird were Lieutenants in the Navy; Tom Megan was Captain and Battery Commander in Hawaii, the Philippines and Okinawa. Irwin Askow also achieved the rank of Captain. The overall average was dragged down somewhat by a couple of clods like Jim Stevens and Maury Rosenfield who never got above the rank of Private, but the overall picture was good.

We have been reasonably active in civic and professional affairs; Robert Macdonald was a member of the Board of Managers of the Chicago Bar Association for two years and Chairman of the Entertainment Committee of the Chicago Bar Association; Frank Mahin is Elder and Clerk of the Session of the Pewee Valley Presbyterian Church; Henry Hill is a member of the Board of Education of School District No. 34 in Glenview, Illinois; Richard Mullins has been a member of the Board of Park Commissioners and
of the City Planning Commission of Wichita; Lee Shaw was Chairman of the Grievance Committee and a member of the Board of Managers of the Chicago Bar Association; Franz Joseph has been Chairman of the Committee on Naturalization and Confiscation of the International Bar Association and on the Committee on Extraterritorial Application of Taxes of the American Bar Association; Zalmon Goldsmith has been President of the Kane County Bar Association, Vice President of the Aurora Bar Association, President of the Aurora YMHA, Chairman of the Aurora Committee for Constitutional Revision, Chairman of the Aurora Red Cross First Aid Committee, and Chairman of the Professional Division of the Aurora Community Chest; Irwin J. Askow has been Librarian, Member of the Board of Managers and Chairman of the Public Relations Committee of the Chicago Bar Association; John R. Canright has acted as Director and Secretary of the Lanikai Association, Oahu; John Lynch has acted as School Attorney for the City of Lafayette, and Officer of the Crown Point Lowell Bar Association; Walter Berdal is Warden of his Church; Harry Kalven, Jr., is a member of the Illinois Supreme Court Committee of Jury Instructions; Marcus Cohn has been Chairman of the Committee on Cooperation of the Examiners of the FCC Bar Association, on the Legislative Committee of his PTA and Precinct Chairman for the Democratic Party; Richard James Stevens has been a Member of the Board of Managers of the Chicago Bar Association and Chairman of the Board of Trustees of the First Unitarian Church of Chicago.

A couple of us have done some writing in the legal field. Franz Joseph has published articles on Discretionary Trusts, Domicile and Residence, Organizing International Businesses, International Aspects of Nationalization, Income Tax Treaties, Death Tax Treaties, Estates of Aliens; and Foreign Sales. Harry Kalven, Jr., is working on a case book on Torts and is co-author of "The Uneasy Case for Progressive Taxation."

We seem to be a sedentary group. About the only one who has revealed any activity in sports is Irwin J. Askow who was Chicago City Champion in the Squash Racquets B League. Walter Berdal has developed a considerable interest in astronomy and is a member of the Atlanta Astronomy Club; and Richard James Stevens was one of the winners of the Chicago Bar Association Duplicate Bridge Tournament two years in a row. Other than that, we seem to have kept our eyes glued to the TV Sets.

Melvin Cohen summed it up pretty well with his remark "I claim to be a successful father." All in all, we may not have set the world on fire, but have behaved ourselves reasonably well.

Kalven—

Continued from page 8

once again the result is to add a degree of freedom to the jury, leaving them without even the guide that recent roughly comparable cases might offer.21

Finally, there is one point at least on which instructions might be much improved. This is the handling of the reduction to present value formula.22 In the case of serious disability or death of a relatively young wage earner the discount is of course very substantial. The point is a notably subtle one to convey quickly to the layman not already familiar with it and we can be certain it is not conveyed by a mild reference to limiting the award to "the present value of the losses." Our study has at least one example where a serious split in the jury on damages seems to have arisen directly from the failure to make the discount point effectively to the jury. The low and high award factions as post trial interview disclosed were in fact in virtual agreement separated simply by the amount of the discount. Yet neither side recognized this and they finally were forced to compromise the difference.

It is true that in a carefully tried case counsel will make the discount point and may well handle part of the jury's difficulty by using annuity tables. This raises