


*The*  
*Law*  *Alumni Journal*

UNIVERSITY OF PENNSYLVANIA

SPRING 1972  
VOLUME VII  
NUMBER III

**PREPAYMENT?**  
Legal 'Blue-Cross' Plan

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**ALUMNI DAY**  
April 27th

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**P.U.C. REVISITED**  
Consumer Advocate's View

*From the Dean's Desk:*

# New Capital Campaign

The University of Pennsylvania is entering a new phase of development in which the Law School will play a major role. As a result of the serious financial difficulties which face higher education in America, this University, like others, has had to confront the future before it happens. Deficits will not disappear by themselves. Excellence cannot be maintained unless they disappear. In this light the University has set upon a course which will enable us to lift the Law School to new heights of achievement.

President Meyerson has announced a double-tracked approach to financial security and academic excellence. The University will seek to raise \$100 million in new endowment, to be allocated primarily to those segments of the University with the greatest academic strength and potential. Until those new funds are realized, the University's deficit will be eliminated, not by across-the-board reductions, but by selective reallocations that will permit those departments and schools with the greatest promise to retain their strength. Preservation of their strength will give ballast to the weaker academic areas, without a general reduction to the mean or lower.

As you would expect, President Meyerson has recognized the Law School as an academic unit which has achieved a level of universally recognized excellence, one that commands respect and resources. He will give us the internal University support which, coupled with our external efforts, should enable us to reach the new levels of accomplishment and service which the School has set—by maintaining our superb faculty at compensation levels comparable to the best, by making a number of faculty additions of a quality



equal to our present best, by providing support for research and library development, and by implementing our new design for the most imaginative and sophisticated curriculum of any law school in America.

The Law Advisory Board, under the chairmanship of Fred Ballard, '42, is beginning to plan a capital campaign for the Law School. It does so on the basis of a judgment which it reached about this School that is consistent with President Meyerson's, although it formed its view independently and earlier. When its campaign plans are concrete, hopefully by Law Alumni Day on April 27, all of you will be brought into them.

In early February, the Law School was visited for three days by an accreditation team representing the American Bar Association and the Association of American Law Schools. Chaired by Dean William B. Lockhart of the University of Minnesota Law School, the visitors scrutinized every aspect of legal education at Penn. Although their written report is not yet available, the team—Dean Lockhart, Associate Dean Arthur Charpentier of Yale, and Robert F. Finke of the Chicago Bar—have reported orally that legal education flourishes at 3400 Chestnut Street at the highest level of expectation and promise. In no small part this results from the dedication and loyal support of our 5,000 alumni to whom I express appreciation and gratitude. In particular I want to express the heartfelt thanks of all of us to William Hyland, '49, as he retires from the Presidency of the Law Alumni Society after two years of energetic and imaginative leadership to the Society and dedicated help to the School and its Dean.

I look forward to seeing you on April 27!

*Bernard Wolfman*

## Law Alumni Day Is April 27th

# The Law Alumni Journal

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# Prepayment For Legal Services Proposed

## Philadelphia Chancellor Advocates Insurance To Cover Legal Fees

*By Harold Cramer, '51  
Philadelphia Bar Association Chancellor*

In the last few years there has been a growing awareness that legal services have not, on a practical basis, been available to large segments of our population. As a result of this need, the government has developed free legal service programs for the indigent. In most parts of our country there are government financed legal services now available to the indigent for their civil needs, and voluntary defender or similar such programs for their criminal needs. Those that can afford to pay for their legal services have ready access to such services.

But what about that portion of our community that does not come within these extremes. Most will agree that persons of modest means are, in today's society, effectively priced out of receiving legal services. Yet there is a substantial, immediate need among people in the middle and lower middle income groups for assistance in the financial aspects of obtaining legal services which they want or which could be of significant benefit to them. This need has not yet been fulfilled. There must be an affirmative duty and commitment of the profession to meet that need in an effectively and professionally respectable manner. The Organized Bar must devise a program whereby the people of our community that are not now able to take advantage of legal services can do so promptly. An effective and efficient program can be developed whereby those in the middle and lower middle income areas will have at their disposal a mechanism to alleviate or lessen the financial burdens of obtaining lawyers' services. As part of this program each person

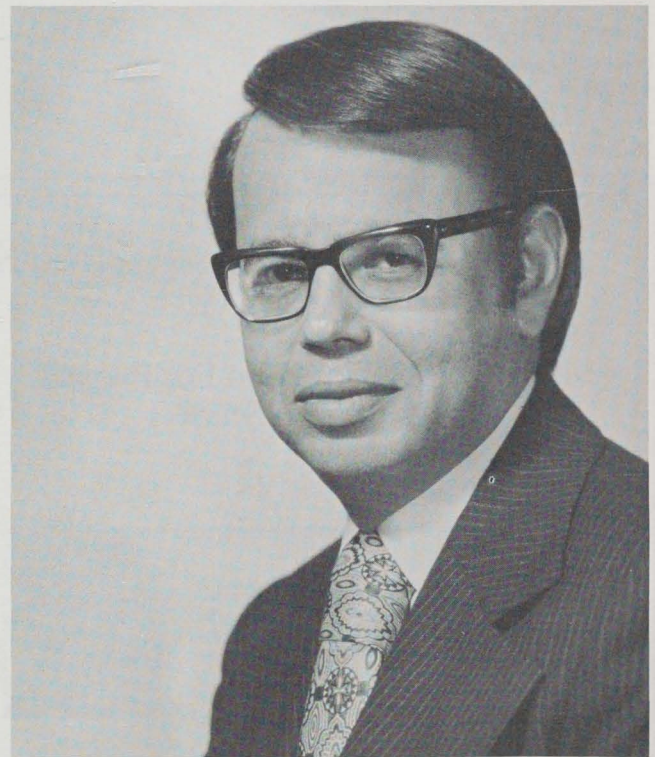
must be entitled to select an attorney of his own choice. Such a program can be designed for this segment of our population by charging them a nominal monthly or other periodic payment so that they will be able to consult with a lawyer of their own choosing. For want of a better name this type of program has been called "Prepaid Legal Services." The proposed program is similar in nature and form to those currently sponsored by the medical professions—Blue Cross and Blue Shield.

In order to achieve this goal the Organized Bar must take immediate steps to implement such a program. Like the medical programs, ideally, the plan should be developed and operated by a non-profit corporation. To obtain the prepaid legal benefits the subscribers would make periodic payments into a fund in amounts depending on the type and extent of legal service coverage they desire. The primary function of the corporation would be to develop and operate the program. It would pay attorneys directly for the covered services rendered to the subscribers.

Although the program seems simple enough to initiate, there are difficulties which presently inhibit further development of prepaid legal service programs. These include the failure of such programs to allow a deduction or credit for the costs of personal legal services under existing income tax structures; and the prohibitions in the Taft-Hartley Act which might not allow a union to include these benefits.

However, presentations have already been made to

*(Continued on page 23)*



**Harold Cramer**

## 'The Law School Of Today'

# Students Select Subjects, Pick Materials, Run Class

By John M. Steadman  
*Visiting Professor of Law*

Picture a law school in which the students select the subjects which will be studied, the material which will be read, the way classes will be run, the work which will be done—and then on top of it all conduct the classes themselves, with the “professor” simply another interested participant.

A vision of the Law School of the future at Pennsylvania? Not so—rather a statement of the Law School of today. Well, not quite, but it is an accurate description of an experimental program conducted for the first time this past fall. As yet officially unnamed, it might succinctly be titled the “student-selected and student-directed seminar.”

As part of the overall curriculum reform previously chronicled in this Journal, the faculty last year approved a proposal to permit second and third year students “independently to form seminar groups to consider, by readings, research and discussion, a legal problem of common interest.”

The proposal was part of a package of innovative offerings designed to encourage and make possible more individualized and personalized programs of study in the upper law school years. Frankly experimental, the effort led to approval of such possibilities as “reading courses,” consisting primarily of independent readings from a list prepared by a faculty member (Professor Oliver is conducting such a course this spring in Insurance), “mini-courses” given over half a semester (this fall were offered such courses as “Condominiums and Co-Ops,” “Law & Psychiatry,” and “Public Employee Labor Relations Law”), and the “outside work” project in which credit is given for work and study with some law-related agency outside of the Law School. The “student-selected and student-directed seminar” was a fourth such innovation.

A group of eight second-year students last spring approached the Curriculum Committee with a proposal that they be permitted to form such a seminar group to consider the area of consumer protection. At that time, no such specific offering existed in the Law School curriculum. The students expressed a desire to study the area in some detail outside of the normal commercial law course treatment.

This was the first, and so far the only, “student-selected and student-directed seminar” to be

proposed. As with all the experimental programs mentioned, approval of the Curriculum Committee was required for credit and a faculty member was to be assigned to “supervise” the project. I agreed to serve in this role, ill-defined as it was. I have searched and continue to search for an appropriate description, but have settled for the nonce on “co-participant” as the most accurate, at least for this particular project.

The students had an organization meeting in the spring to discuss the outlines of the project. There was some flavor to it of attempting to draw a picture of a narwhale—one had only a general fuzzy idea of the subject.

How to begin? Happily, an excellent book had recently appeared by Homer Kripke, a law professor at New York University, entitled “Consumer Credit.” It was agreed that each of the students would read this book over the summer to gain a common general knowledge of the area. At the opening of school in the fall, then, the group could decide upon the further matters to be explored and the way this would be done.

During the summer, however, an event occurred which sharply changed the focus of the group’s work. Law School graduate Peter Hearn, of the class of 1961, serving as a member of a Task Force appointed by Governor Shapp to look into various aspects of consumer protection, contacted the Law School to determine possible interest in assisting on this study. The student group met with Hearn, and task and doers were finely matched. The students decided to place their focus on possible reform legislation for Pennsylvania.

Such a focal point provided a structuring of the seminar for the fall. Briefly, the group divided the overall area of consumer protection into eight distinct units for investigation, one area being assigned to each student. The group met twice a week for two hours at each meeting, and heard a report from each student in turn as to his investigation in source literature on his subject area, followed by intensive discussion. The objective was to make certain that virtually all the currently available literature in consumer protection was carefully studied by the group.

Then the group turned to outside experts. Some they invited to attend their seminar meetings and

*(Continued on page 23)*

# Supreme Court Traditional Champion Of Individual Rights, Lewis Contends

## *Times* Correspondent Gives Roberts Lecture

Without the restraints of the Constitution, America's minorities would be even more susceptible to the whims of the majority than they are today, argued New York Times London correspondent Anthony Lewis, the 1972 Owen J. Roberts Memorial Lecturer.

Lewis, who addressed over 300 alumni and guests at the University's Fine Arts Auditorium on March 2, spoke on "Lawyers and Civilization."

"Would minorities in the United States really benefit from a populist system without respect for law . . . ?" Lewis asked. "They ought to shudder at the idea."

"American history has enough cruelties on its pages. How much worse they (minorities) would have been if there were no limits—limits enforced by law—on the power of the majority to stamp out unpopular views and treat particular groups as outcasts."

Historically, Lewis contended, it has been the American courts which have vindicated individual rights.

"As long ago as 1925 the Supreme Court defined 'due process of law' to protect freedom of speech," he said. "Was that the cynical wish of the high and mighty? Was it when the Court in the 1930's upheld the right of Communists to assemble freely, or of

extremists to publish an anti-semitic newspaper? . . . Or when, in the 1930's, it began the long series of cases establishing that segregated public education denied the equal protection of the laws? All this was before anyone considered the Court an instrument of liberal reform."

The Supreme Court is the one institution in America, Lewis said, that "is a more open forum, more subject to persuasion, less moved by money or influence than any other institution of government."

"Anyone who sits in that courtroom and watches even briefly must be impressed by the simplicity of access, the directness of the process, the very real



Post-Lecture Reception

consideration given to interests that have little power in the material world."

"The Court listened to blacks when Congress did not, and to Communists, and to pornographers . . . It would be very hard to convince me that the despised and rejected in our society would be better off if we gave up our vision of law in Freud's sense, one marked by detachment, and went over to what could be called revolutionary justice, committed to particular interests."

Lewis, the author of *Gideon's Trumpet*, spent a year at the Harvard Law School as a Neiman fellow and later covered the U.S. Supreme Court for the New York Times. He has been the recipient of two Pulitzer prizes.

The Owen J. Roberts Memorial Lecture, is jointly sponsored by the Pennsylvania Chapter of The Order of the Coif, the Law Alumni Society and the Law School.



Lewis And Zelda Wolfman

# New Appointee 'Returns' To Penna. P.U.C.

## Glibness With Shapp Clinches Post For 'Consumer Advocate'

By Louis J. Carter, '49

*Penna. Public Utility Commission*

While the tale about to unfold may, to the casual reader, lack elements of a James Bond thriller, the personal agony and ecstasy of the drama leading to my appointment as a member of the Pennsylvania Public Utility Commission matches anything ever conjured by the brilliant Ian Fleming imagination.

No bevy of Pussy Galores, no breath-taking whodun-it, no TV cliff-hanger could have more dramatic impact for me than the saga that unfolded from the moment last spring when Gov. Milton J. Shapp said: "Lou, may I see you for a moment?"

That prophetic moment, coming quite appropriately at the annual Lawyers Dinner of the Allied Jewish Appeal, grew into months of titillating anticipation.

The emotional shock involved in the agonizing wait for what often seemed the millenium might have felled a weaker man. I survived, but I sometimes wonder how—considering that the inevitable, horribly long doctor's-office wait pales by comparison with the nail-chewing, seemingly interminable uncertainty about my confirmation by the state senate.

But, to begin at the beginning—and thus a flashback to the AJA lawyers' dinner. I went—as always—because it is one of the outstanding events of the year. I swear by the Torah that I had no hint of things to come. I did come to see some old friends—a judge or two—and not to talk about a case but just to let them know I was alive.

Not being a name-dropper (save, perhaps for Gov. Milton J. Shapp), I sat inconspicuously, I thought, to the rear with fingers crossed in hope that my ignominious pledge would be lost in the card-calling ritual.

Many of you will recall that the 1971 affair was held at the Warwick Hotel where Mr. Shapp was presented with a "most distinguished citizen" award—carrying the historic distinction as the first Jew ever elected Governor of Pennsylvania.

That event, of course, spurred my attendance, as it did many others. On top of that, it was heart-warming to hear all the charitable contributions of many thousands of dollars from the more successful Philadelphia lawyers.

With the formal program ended, I stood in a long line to get the Governor's autograph for my son, Steve. The Governor had beckoned to me and, with a "who, me?" look, turned around to see who he was recognizing—and found that he really meant me.

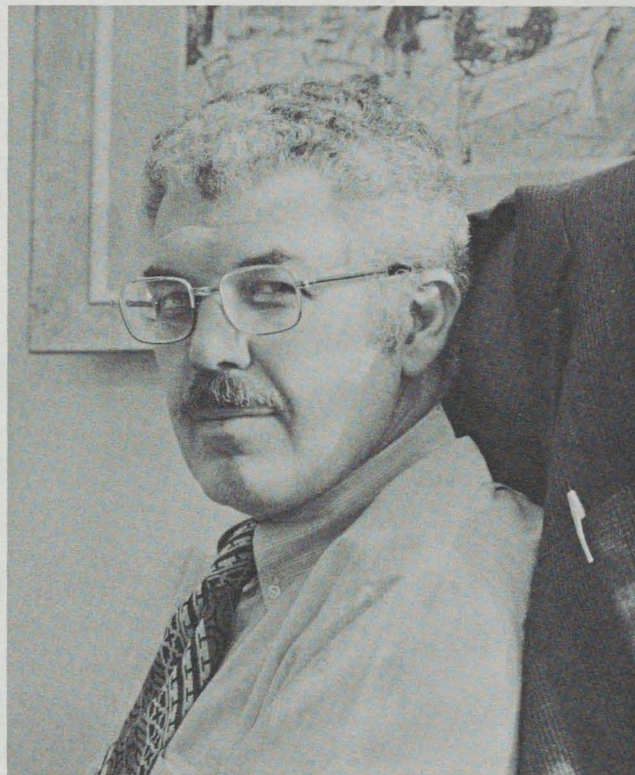
As I approached the podium, the Governor said: "Lou, when can you come to Harrisburg? I want to talk to you." Putting on what I later realized was a wholly transparent failure at nonchalance, I replied: "Any time, Governor."

While attempting to retain some inward composure, I heard the Governor say: "Now wait a minute, Lou. You don't have to come to Harrisburg. Why don't you come over to my house Saturday and I'll see you then?" My response, much too quick and quivery, was "certainly, Governor."

When Milton Shapp was elected, it did occur to me that I would like the post of Chief Counsel of the PUC. This feeling stemmed, in large part, from the fact that I had been an Assistant Counsel with the Commission between 1956 and 1967. Not even subconsciously had I thought of a 10-year tenure as a Commission member.

The position of Chief Counsel is an enviable one. Most of the chief counsels I had known during my time as an assistant counsel acted for the most part as administrators. I always fantasized that one day when I was chief counsel everything would be different—substance over form, the consumer uber alles etc. etc.

As a worker in the Democratic vineyards (I ran



Louis J. Carter

unsuccessfully for the state legislature in 1958), and as a friend of Shane Creamer, the attorney general, there was a chance of my being asked to take the post.

The attorney general and I had been part of a carpool of lawyers who would make the daily trip from Paoli to Harrisburg. In the back of the station wagon, the lawyers would occasionally put aside their scholarly texts in order to play cards . . . especially "hearts."

One morning I engaged Dave Abrahamsen and the now attorney general in a friendly game. Though Guinness is not aware of it, I claim the world's record in that hearts game. I ran all the hearts and the queen of spades three times in succession against two of the toughest crime fighters these parts have ever known. Both Dave and Shane later became members of the federal crime strike force in this district. To date, not one "hearts" game has been cracked by the Feds . . . no talent.

In any event, during the eleven years I served as an assistant counsel, ascendency to the high elevation of PUC Commissioner was something I only dreamt about for my son. I would often say "I didn't raise my son to be a solidier; I raised him to be a PUC Commissioner." From my office in the back of the Law Bureau, all I could see was that a commissioner came to Harrisburg one day a week. That was, I thought, the total extent of his services rendered to the Commonwealth, and in return for a handsome \$24,000 per year. That, I repeat, is what I *thought*.

But back to my story—I had first met Milton Shapp in the late 1950s, during Gov. David Lawrence's regime. There was then in progress before the I.C.C. what was known as the Pennsylvania-New York Central Railroad Merger Case. The Commonwealth of Pennsylvania was involved, and I was one of the lawyers chosen to go to Washington to oppose the merger.

Another party in that action was Milton Shapp, retired from his cable TV business and devoting himself—with the help of an economist—to writing a book on the economic impact of the proposed merger. In the course of these proceedings I had occasion to spend a little time with the future governor. If the noblest service is the public good, then he was the leading nobleman of that era. I had never known or ever heard of a man who would give more of himself and his resources to fight for the economic well being of his community. I am also certain that in those early days there was no political motivation for his good works.

Later, he and I would from time to time meet on the train to Harrisburg as he became more and more involved in Pennsylvania Democratic politics.

But on with the story. The day after the AJA dinner, I received a call from Julian Rothman, (the governor's appointments secretary). I still didn't know why the governor wanted to see me. Rothman said it wouldn't be necessary for me to meet the governor in Harrisburg or at home, but that the governor was going to

*(Continued on page 24)*



Carter With Philadelphia Judges Jay H. Eiseman And Paul M. Chalfin



## *Institute For Court Management*

# 'Fellow' Recalls Capt. Kangaroo And Astro-Turf Learning Center

By Jean M. White

"This will no doubt be the most exciting and rewarding professional experience of your lives," fifty-seven male classmates and I were assured by the 300 lb. jumpsuit-clad Dean of the Institute for Court Management, at the first plenary session of the six-month program.

No doubt. Right on. Sure thing.

Well it did have its ups and downs; its swoops and swells; its trips and tumbles—leaving, I'm afraid, my 57 male classmates and me more manic-depressive than professional.

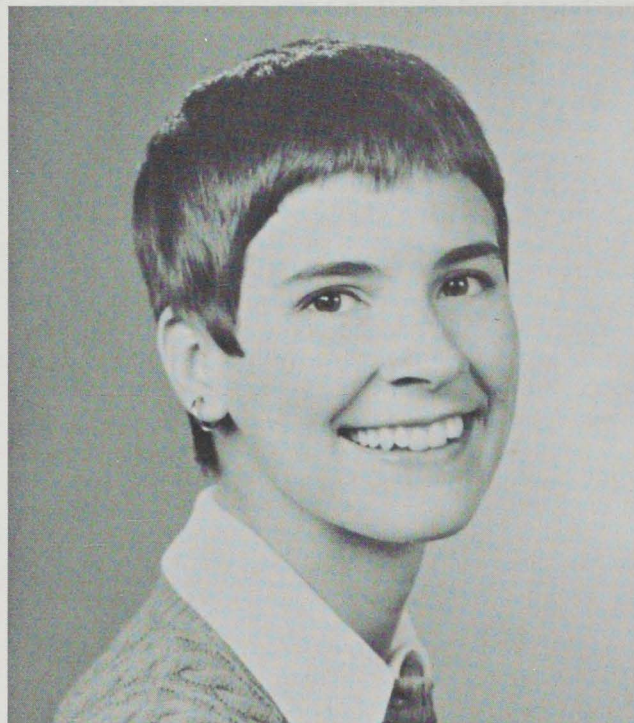
The purpose of the two-year old Institute, headquartered variously at Denver Law School, the Astro-turf Learning Center Plaza at Snowmass-at-Aspen, and 1612 Tremont Place in Denver, is as discretionary as its location.

Chief Justice Warren E. Burger, father and founder of the Institute, proposed a development program to train approximately 90 lawyers and other professionals to apply modern business management techniques to the sagging administrative structure of the courts, especially in major metropolitan areas.

Captain Kangaroo, on the other hand, Dean of the educational design and director of games, would say (I "heard" him say it, even if he never really did say it—a trick we were taught by the Captain himself) that the Institute should place its prime emphasis on "breaking down negative habit patterns" formed in infancy in these professionals, "building on any strengths" these professionals might have, and teaching them to "learn to learn."

Finally, I, with the consent of my boss in Philadelphia and the aid of my spouse, insisted that the Institute owed me a stimulating and exciting experience—namely that of breathing pure air, drinking icy clear water from a mountain stream, and internalizing deep and beautiful thoughts of Nature, People, and Justice.

Well, all three of us being professionals by training, and therefore at a higher level of mortality than most, we each got our own way—sort of. Due to the influence of the Chief Justice, we learned much about the sagging structure of our courts. Due to the omnipotence of our immediate leader, we forgot our old bad habits and built on our strengths to the point that we were *certain* we knew more about how people learn than did our leader. Due to sheer obstinance, plus the ability to disappear, my husband and I did climb



Jean M. White

several of the mountains surrounding Snowmass.

Add these three divergent purposes back together again and you are faced by a typical day of the ten-week summer portion of the Institute for Court Management's six-month training program.

On a typical day—forget it, *every* day, class began at 8:00 A.M. To "go to class" meant dressing warmly, running down the condominium hallway (because you are late), walking outside quickly past the heated swimming pool up the 45° angle hill, trying hard, at this 8500' altitude, to not hyperventilate. You were late. You were puffing. But invariably class had not yet started.

The astroturf learning center plaza was molded out of 10 or 12 parking spaces beneath the Stonebridge Condominiums. The front of the classroom was a stone wall built into the hill; on the other three sides were vari-colored slats of plywood, with room in between the slats for entries and exits (except for Captain Kangaroo, who couldn't fit between the slats and had to go to one end with a particularly large opening). The cement garage floor was covered by strips of cheap, green, plastic "astroturf"—hence the

name. With sunshine, fresh air, and freedom to our backs, we would sit in artificial luxury for an average of nine hours a day.

Sometime between 8 and 8:30 more than half the fellows would be caught sitting down, and we would begin. Incidentally, the term "fellows" was chosen rather than "the herd," "men," or "guys," in order to make me feel "more comfortable" with the group. (Feeling comfortable was one of Captain Kangaroo's highest values for us; nothing was more effective in quashing a good idea than a single member of the class or the staff raising his hand and "owning" the fact that he was "uncomfortable" with the idea.) The sexual complement to a fellow was a "spouse," for the same reason as stated above.

Very well. We're facing the stone wall, and we're introduced to our guest-lecturer for the day—oops, I mean our "facilitator." The topic for the week is The Internal Environment of the Courts. Our facilitator begins, with all due humility, by explaining how uncomfortable she feels because she overheard two fellows discussing her and saying she had been booted out of last year's class. As we are obliged to listen further to her sources of discomfiture, we begin to fidget some ourselves. Aha. At last the topic.

We are told, via the ever-present flip charts in the front of the room, that organization theory has gone through three stages since its articulated inception: (1) P.O.S.D.C.O.R.B. (a functional theory so rigid that we were not indulged with the word explanations

behind the letters of the acronym); (2) Human Relations (a theory which said people in organizations do what they are cajoled to do); (3) Role-playing (the latest and greatest).

It now being 9 o'clock and time for a coffee break, we are excused.

When a substantial number of fellows and staff are again seated, we resume. We are told to break into groups of six (an order we are so accustomed to hearing that an audible moan rises from the midst) and to discuss the presentation of the three theories, noting on six flip charts the words or phrases we didn't understand.

We break. We break not only into groups of six, but also for more coffee. If we're lucky, the garbage truck will come past now, while we're broken. If we're not lucky (a matter of interpretation) we will have to take a garbage break when the truck rounds the bend at our level of the mountain, grinds from low to second, bumps up 'til it's adjacent to our astroturf plaza, idles, and commences whining garbage-mouth machinations. Garbage truck delivery came every other day.

Once back together again, each group has to report to the total group what misunderstandings are listed on its flip chart. As the reporter explains the misunderstandings and the reasons for the misunderstandings, the facilitator is transposing the small group's misunderstandings onto a central misunderstanding flip chart.

By lunch time, the facilitator has compiled the total central misunderstanding flip chart, and, in fact, has attempted to explain away all the misunderstandings so listed. So as to not forget the substance of the morning discussions, however, the following day you will receive your own typed and xeroxed copy of the central misunderstanding flip chart.

Whew, you say. Lunch. A perfect opportunity to relax by the pool in the sunshine and ruminate on the innovative process of learning to learn.

Error. Lunchtime is important to the educational design (and the educational designer). Lunch with the fellows is mandatory; lunch with the fellows is at the Refectory; lunch costs \$2.50 every day. We will eat together, and spouses are not invited.

As with most camps, mail call after lunch can make or break your day.

Afternoon at the astroturf learning center is scheduled from 1 P.M. to 4:00 P.M. It goes faster than the morning, primarily because of fewer coffee breaks. And it's good.

It's not always good, but to illustrate the incongruity of the ten-week summer program, let's pursue this session which, at one time or another, did occur.

This afternoon we are privileged to hear a panel, composed of (1) the popular—if seldom present—Director of the Institute, (2) the first trial Court Administrator in the country (who hasn't been one for six years now), and (3) the witty State Court Admin-

(Continued on page 29)

#### THE AUTHOR

*Ms. Jean M. White, currently employed by the Philadelphia Court of Common Pleas in the capacity of writing and implementing new procedures and special projects for the court, recently received her certificate of accreditation from the Institute for Court Management.*

*The Institute for Court Management was founded by Chief Justice Warren E. Burger in 1970 to train existing professionals in the skills of a new career—that of managing judicial systems, to the dual ends of efficiency and justice.*

*Under the directorship of Ernest C. Friesen, former U.S. Attorney in charge of administration of the Department of Justice, the Institute for Court Management is charged with the duty of training approximately one hundred Court Administrators over a three year period. The program is six months in duration: two weeks of initial immersion in a court system; ten weeks of summer training; twelve weeks of internship in a court system; two weeks of wrap-up and graduation.*

*Ms. White was the only female member of the second year's class of the Institute for Court Management. The following story represents some of her impressions of the Institute's ten-week summer program, conducted at Snowmass-at-Aspen, Colorado.*

## Women In The Law

# Norma Shapiro First Female On Philadelphia Bar Board

By Cyndi Bloom

On January 27, 1972, the staid and historically conservative Philadelphia Bar Association broke precedent for the first time in its 170-year existence and elected a woman to membership on its prestigious Board of Governors.

Norma Levy Shapiro, senior associate in the law firm of Dechert, Price & Rhoads, was elected by the Board of Governors to fill the term of the Hon. Levy Anderson, who was elevated to the Philadelphia Common Pleas Court Bench in December, 1971.

An impressive academic background supports Mrs. Shapiro's qualifications as an outstanding lawyer, teacher and community affairs organizer. She graduated from the University of Michigan with honors in 1948 garnering a B.A. degree in Political Theory. She received her LL.B. in 1951 from the Law School, graduating magna cum laude, and third in her class.

She began her law career as the first and only woman ever to hold a clerkship with the Hon. Horace Stern, a highly regarded Justice of the Pennsylvania Supreme Court, who later became the Court's Chief Justice.

Her academic career not yet complete, Mrs. Shapiro returned to the Law School as a Gowen Fellow in 1954 and 1955, at which time she concentrated on a study of criminal law and the juvenile court system.

During her student days her honors included membership in the Order of the Coif and Phi Beta Kappa. She was an editor of the Law Review in the 1949-50 academic year.

Mrs. Shapiro recalls student life at the Law School in the late forties as being extremely "competitive" with "an excessive amount of tension" pervading the class. The reason for this strained atmosphere, she explains, was due to "overcrowded conditions stemming from an abundance of World War II veterans who were returning home and entering college."

She was one of five women, out of 126 class members, who graduated in 1951. She remembers little class prejudice against women, in particular, because of the extreme competitive academic pressures on both male and female students in the push of the post-war years.

In 1949 she married a Penn medical student, Bernard Shapiro, who is now chairman of the Department of Nuclear Medicine, Division of Radiology, at Albert Einstein Medical Center. The Shapiros graduated from Penn Law and Medical Schools in the same year.



Norma L. Shapiro

Her husband, she reveals, is "very affirmative about women in career positions. He encourages me a great deal in my work and has always respected my wish to be a lawyer."

When her first child was born in 1958, Mrs. Shapiro temporarily left the practice of law, not to return until 1967 when her third child was of school age. She is dedicated to the rearing of her children—Finley (13), Neil (12), and Aaron (11). She points out "I believe all employers should accept and be receptive to employment of women who wish to work until their families arrive and then return home to raise pre-school children; women should be encouraged to return to work on a part-time basis when their responsibilities lessen. Law firms particularly should be willing to utilize female legal talents by working out flexible arrangements with women attorneys who want to work part-time so that they can be with their families. But I also approve of improved child care facilities for women who are unwilling or unable to remain at home so that they can utilize their legal talents."

*(Continued on page 30)*

# Housing Course Focuses On Middle Class

## Many Can't Afford Homes Visiting Professor Claims

Whether certain courses offered in law schools today only represent fads is not the real issue confronting legal education, according to Howard Kalodner, professor of law at the New York University School of Law and visiting professor at the Law School for the current academic year.

"The real question is more whether specialized courses in areas in which students don't generally earn their living can be justified because they do represent areas in which attorneys generally take a leading role as community leaders," he said.

Kalodner teaches courses which many people would place in this category—urban housing and environmental law—and his attitude toward them is refreshingly realistic.

"If I thought that the sole purpose of the courses I teach was to deal with the specific subject matter that I teach," he said, "then my answer would clearly be that these courses don't justify the time they require. But I hope that the manner of treatment results in the students learning much more.

"Students must learn to see how the substantive questions—and not just the questions of law—arise; what kind of response the government is capable of making to these questions; how the decision is reached and who is responsible for it; and finally how the statutes are interpreted.

"These courses are useful to teach students something of that process, just as the courses generally offered for the last ten years have been. It's just that labor and antitrust, for example, are fields in which lawyers have traditionally made their living."

New York University Law School is currently in the process of reviewing all the urban courses they have offered during the past four years to find out how useful they actually are to lawyers once they are engaged in practice—a technique which Kalodner has personally employed for his own courses.

"I've found that students who go into the fields covered in my courses say that they find what they studied to be very helpful. But it's also necessary to hear from the students who took the courses but who don't practice in those fields, to see if they find what they learned to be of present value."

"There's been a distinct change in student preference which has occurred only very recently. Up until this year, urban law courses in most law schools, and NYU is no exception, were literally jammed with students.

"But now the more traditional courses have become great favorites. The enrollment in my housing course at NYU this year is half what it was last year."

"Teaching courses in these relatively new areas requires a tremendous amount of time because the law you're dealing with is constantly changing. So the question becomes whether the tremendous amount of faculty time and energy required is justified by the value of the course to the students once they are practicing attorneys."

"I'm not sure at this point what the answers are."

Last semester, Kalodner taught a three credit urban housing course at the Law School to about 45 second and third year students.

"THE QUESTION NOW IS WHETHER  
OR NOT WE'RE GOING TO SHIFT  
AWAY FROM THIS VERY COMPLEX  
SYSTEM OF SUBSIDIZING THE BUILD-  
ING INDUSTRY AND THE BANKERS  
TO A DIRECT SUBSIDY OF THE PRO-  
SPECTIVE HOMEOWNER."

HOWARD KALODNER

"I got into this area through an interest in problems directly related to urban living. At N.Y.U., I had taught a seminar in legal problems of urban life about five years ago, but was dissatisfied with it because it was really too much a summary.

"This course tries to look at all the legal systems that deal with the providing of housing, including those factors that deal with what it looks like, how much it will cost, building, zoning and housing codes.

"Some of the cost factors are economic, but there are also legal factors like housing subsidy programs, the character of the construction unions, and the real estate tax, which represents a more and more substantial part of housing expense."

Kalodner says the focus of the course initially centered on housing for the poor, "but since more and more people are unable to afford their own homes, the range of the course has broadened considerably."

*(Continued on page 31)*

*More Tales From Luitweiler:*

# Burgess' Body Beautiful Inspires Neophyte Dakota Wheat Harvester

By J. C. Luitweiler, '14

During the summer of 1912 between freshman and sophomore years I had a brain storm of how to earn an easy hundred dollars or so for the following winter expenses. Sixty years ago that would buy five times what it buys today.

During that first year I had rubbed elbows with Ed Burgess, who has become one of our most distinguished alumni. He was a member of our law fraternity and was looked up to by all his frat brothers, especially for his physique which, by the way, he has preserved into his 84th year. He can still touch his toes without bending his knees. He had come all the way East from the State of Washington, the son of a wheat farmer and a recent college graduate.

"Ed," I said one day, "how did you get that strong body of yours?"

"Oh, it came natural from working in the harvest fields of the West. When one handles hundred and forty pound sacks of wheat all day, he can't help getting a strong body."

In those years Penn gave all its freshmen physical examinations and Ed had qualified as one of the top in muscular quality.

During the winter I had pondered this and pictured returning the following fall with a body like Ed's from a summer in the harvest fields. While he had been toiling with his wheat sacks I had been spending five years punching a typewriter and clerking in a Yucatan, Mexico steamship office, and debilitated by all sorts of tropical afflictions.

In the spring I confessed to Ed my brain storm and asked his counsel. He volunteered much useful advice, such as—

"You don't have to go as far west as the State of Washington. You can find all the wheat harvesting you want in the Dakotas. But don't tell the Dakotans you are a college boy from Philadelphia. Tell them you hail from Minnesota. They look down on 'dudes' out west. Equip yourself with blankets and a bed roll (a 6' x 6' sheet of heavy canvas) and enough rough clothing you can carry on your back. You may have to sleep much in the open. Before you apply for a job in the harvest fields, discard your city clothes for blue jeans, a khaki shirt and a broad brim straw hat . . . You might head for Fargo, N.D. and make the change-over there."

As I learned that the wheat harvest didn't start in the Dakotas for a month or more I decided to journey westward leisurely and take in as much country as

I could.

My first stop was Baltimore where the Democratic Convention was to be held. My first night I spent in my blanket roll, on the outskirts of Baltimore. The next morning I tackled reporters' headquarters, saying I was an expert in short hand and volunteered to "cover" the Convention for any one who wanted my services free. All I got was a horse laugh.

"Want to get inside Convention Hall, kid?" said a reporter champing on a big cigar. "See that bunch of delegates crowding through the doors? Just mingle with a bunch like that, start a lively conversation with some one and don't look around as though you expect to be booted out and you'll get in." And it worked!

It worked so well that I stayed there from 9 A.M. Saturday morning until midnight when the Convention adjourned to celebrate the Sabbath.

But before adjourning William Jennings Bryan, with his stentorian voice—that was before the era of voice amplification—made his famous speech throwing his weight behind the nomination of Woodrow Wilson, getting him nominated the next week, and himself



Ed Burgess

later his Secretary of State.

Much transpired on the leisurely way west, but hardly a part of a harvesting story. As Ed had suggested, my first real stop was Fargo, N.D., a bustling town already 60 years ago. I called on a lawyer and asked his advice about hanging up my shingle out there when I had finished law school.

"Don't think of it!" he said. "I have been in this small office now some 20 years and the best I can earn is \$2,000 a year. No, stay in the East and become one of those famous Philadelphia lawyers we read about who earn from \$10,000 to \$100,000."

It was his suggestion that I head for a little town of Grandin, N.D. in the heart of the wheat country. There I went into a general store, bought myself overalls, a khaki shirt and heavy shoes. The storekeeper was amused at my brass and allowed me to



Luitweiler Circa 1914

sleep in the rear of his store until I landed a job. He advised me to tackle farmers as they came to town, and ask for work. But he added: "Consult with me before taking a job. You want to avoid the big farms where you'll sleep in a bunk house and get lousy." He wasn't too hopeful, though. I didn't look much like a harvest hand with my skinny frame, pale skin and rosey cheeks.

For the next few days I tackled every farmer who drove in. They looked me over as a cattle buyer would appraise a steer. Usually it was just a silent shake of the head. But one farmer expressed himself: "With those wrists and hands you look more like a piano player."

One farmer finally took me on, said he would give

me \$3.00 a day and board, had no room in his house but I could sleep in his barn with the cows. I learned he had some 17 sections of land. Each section is 640 acres and a mile square. We reached his farm at midday and I had lunch with his family, seven strapping sons with builds like prize fighters. In fact the table talk was largely arguments of the pros and cons of 'gentlemen of the ring'. In their opinion Dempsey out-ranked the President. I kept a tactful silence.

Grain wasn't ripe, so he gave me odd jobs to do that afternoon such as mucking out the stable and of all things, in the evening, milking 30 cows. I had never milked a cow in my life, so one of the sons gave me the first lesson. As he did it there seemed nothing to it. He handed me a one-legged stool and left the barn to me and the cows. The first cow I tackled didn't seem to like my technique and kicked me and my stool across the aisle into the facing stall. After that I went about looking for a docile cow. They all looked docile enough until I started milking. After an hour I ended up with half a pail of milk and a decision to give it up as a hard job. As I left for the house I found the boys had all been watching the performance through cracks in the barn. They gave me the 'he-haw' and I didn't get *anything* for that half day's work.

Next morning the farmer asked: "Know how to hoe potatoes?"

"Sure," I said for I really did. He took me out to his potato 'patch'. Now out there everything is in sections, half sections and quarter sections. The potato patch looked like a half section with half mile long rows. I walked back to the house for lunch and when it was getting dark he came out to inspect the work. I had done what I thought a creditable job, 7 rows a half mile long.

"H-m-m-m" he said. "Should have done a dozen rows." He made a mental note apparently that 7/12th of \$3.00 was \$1.75 and that's what he paid me. With 7 husky sons to back him up, I didn't give him an argument, but after supper I took my bed roll and walked the three miles back to Grandin.

"Oh," said my storekeeper friend, "I'll pick out a better bet for you if you aren't in a hurry. There's a young married couple, college graduates, who have a small farm of a half dozen quarter sections, or about 1000 acres. He has a young college student working for him as hired man. If he takes you on you'll probably get a bed in his house."

My friend spotted him when he drove in for his mail or groceries, he hired me and drove me home in his buggy. There weren't many autos around in those days. It was a better deal than the first except for the ending. I worked for Mr. H all summer. I use H since if I called him what his neighbors called him, as I found out, he might be still living and sue me for libel. He was known to his face as 'Crook H-----'.

As grain still wasn't ripe I spent a week reshingling his barn. That I knew something about; more than Crook H----. He was no dirt farmer and spent most

of his time, I learned, playing poker or pool in town. When I came in one afternoon, soaked to the skin from a pouring rain, he chased me out—"We don't mind getting wet out here."

Oh, yeah, I wanted to say. Did *you* ever get wet?

I also weeded a large crop of thistles in his hog run and mucked out the stable. No cows, thank God! Only horses. Muscles weren't developing fast and I was bored enough to quit. But the antidote for boredom was chumming with his hired man, a University of Minnesota undergraduate who was spending his vacation on the farm. He was studying animal husbandry and I got an elemental schooling in it from him. While trying to harness a horse for my bundle-wagon for the harvest later on, I got kicked across

the barn. He taught me how to approach a horse from the rear without a repetition. That *was* my best lesson in animal husbandry!

Back East I had hoed a patch of corn, but never cultivated a quarter section of it with a horse-drawn cultivator. It can get boring. So I fell asleep on the seat of my cultivator and it ripped up a whole row before I fell off. Crook H---- was plenty sore, but he overlooked it when I offered to set up the stalks again.

Pretty soon the grain was ripe and while the hired man drove a binder that cut and bound the ripening grain in bundles, it was my job to set them up in shocks like so many tepees, so the heads of grain

*(Continued on page 32)*

## U.N. Acts

# Cradle-To-Grave Pass Fail System

By J. F. Heinz, '50

Several months have gone by since the momentous events of May, 1977, culminating in adoption by the United Nations of the PennSAC proposal for a world-wide test of the so-called cradle-to-grave pass/fail system.

Not the least of the critics of pass/fail are basketball enthusiasts at the venerable University of Pennsylvania, paradoxically, the very campus where the scheme originated. With imposition of the quality rating ban ("mandated mediocrity," according to sports fans), the NCAA promptly impounded all records of past scores and dissolved the national rating systems, thus dealing a devastating blow to the elongated Quakers, winners of 153 consecutive contests.

Indeed, the outlawing of "adjectival" scoring has had a profound impact on the entire sports world. Major league baseball games, for example, are now played in utter secrecy, with fans barred by armed guards. Officials with top-security clearances issue terse pass/fail announcements after the conclusion of each game, and actual scores are sealed in metal tubes

encased in concrete and later sunk in mid-ocean.

The shape of things to come in athletics was revealed with stunning clarity during the recent track meet between the thin-clads of Villanova and the speedsters of UCLA. In the sprints there were numerous "false starts," meaning that runners who broke ahead of their opponents insisted upon returning to the blocks. Other runners stopped short of the finishing line and attempted to thrust reluctant adversaries across. In the climactic event, the long-awaited confrontation between milers Joe Alphonse and Charlie Gaston, a new NCAA record was set—three hours and twelve minutes—as the contestants vied with each other to waste time, and continually jockeyed for the rearward position.

More encouraging progress is being made in the commercial area. Manufacturers the world over are engaged in a pell-mell rush to mediocritize their products in compliance with PennSAC's announced "fundamental moral opposition to . . . frontier notions of rugged individualism." NAM executive secretary Sam Shoddy hailed the trend as a ringing denunciation of "the false presumption that the major incentive for business is the achievement of competitive advantage over one's fellow manufacturers."

This view is shared with somewhat less enthusiasm by President Nader, who won the recent presidential election by an undisclosed margin.

"Our main problem, I suppose," said a UN spokesman, "is selecting a group to assess the pass/fail system during and after the test period. Our computer has given a 'pass' rating to 78,356,912 possible candidates, and weeding 'em down to twelve won't be easy."

Meanwhile, PennSAC has filed suit declaring the United States Supreme Court to be unconstitutional because its members were selected on the basis of competence.

### THE AUTHOR

*John F. Heinz is a 1950 graduate of the Law School whose law-oriented verses graced the Journal in the Spring of 1970. Long a writer for Bethlehem Steel's Public Affairs Department, Heinz herewith shares some thoughts generated by the pass/fail controversy which engulfed the Law School at the end of the first semester.*

*A second piece—in much the same vein—composed of reflections on the now-almost-forgotten confrontations at Columbia University appears elsewhere in this issue.*

## Letters To The Editor

Dear Sir:

Thank you for the recent article on the pass-fail proposal which the faculty rejected. As a very recent graduate I have strong recollections of student-faculty disagreements. Although I am somewhat embarrassed to admit it, I find that I agree with the thirteen faculty members who voted against the proposal. My teeth may have been set on edge by the paternalism demonstrated by Messrs. Gorman and Leech, but I feel that the SAC just has not made out a case for the pass-fail system.

The SAC proposal is based in part upon the existence of the academic conscientious objector—a student who has “a fundamental moral opposition to a grading system.” I will concede that grading systems are a nuisance and they may even be offensive. Nevertheless, I find it difficult to conceive of moral or ethical objections to a system of grades. It seems to me that using terms like “fundamental moral opposition” and “conscientious objection” when speaking of a grading system prostitutes those ideas and cheapens their meaning. One may have moral and conscientious scruples against the taking of life or the cheating of another human being, but to say that one’s dislike of being graded in school is of a moral nature, bleeds all meaning out of the term “moral.”

However, let me assume that an academic conscientious objector does not exist. It would seem to me that the SAC proposal does little to ease his outraged conscience, for the proposal does not do away with the grading; it merely substitutes a system of two grades for a system of five. The conscientious objector must still strive in order to pass a course rather than fail it. No matter how we examine it, the pass-fail system is a grading system.

It would seem then that the objection is not to being graded, but to being placed in a competitive atmosphere. Indeed, this appears to be the second, and perhaps more fundamental, premise of the SAC argument. “Exclusive reliance on the adjective grading system is based on the false presumption that the major incentive for learning is the achievement of competitive advantage over one’s fellow students.” There is a serious question in my mind whether the existing grading system fosters the kind of cut throat competition which is implied in the quotation above and in the paragraph which follows the one in which that sentence appears. The present system, as I recall, supposes that 50% of a class will receive a grade of Qualified; 30%, Good; 20%, Excellent. Unqualifieds and Distinguisheds are to be given sparingly, only to truly deserving papers. Presumably, under the SAC proposal, students will make the effort to pass. If that is so, then the difference between striving for a Credit under the proposed system and striving for a Qualified under the existing system is non-existent. One com-

petes in either system to the extent that one desires to pass the course. All students can achieve the ends of the SAC proposal under the present system by working hard enough to earn a Qualified.

From this we can draw two possible conclusions. The first is that the SAC proposal is an inadequate remedy for the evils it seeks to cure. If grading creates competition, then the substitution of a two-tiered grading system for the existing system retains the competition to pass. To remedy this, all grades should be abolished and the pure fruit of professional competence should be substituted for the whip of failure and the raw carrot of a “Distinguished.” The alternative conclusion is that, assuming that the SAC proposal cures the defects it has found, then competition in its malign form only exists when one strives for a grade above Qualified. If this second conclusion is true, then the answer of the existing system to those who don’t like to compete is simple: Don’t. The present system adequately allows students to opt out of competition and the SAC proposal adds nothing to it. For the student interested solely in knowledge, who by definition is not engaged in cut throat competition for grades, the existing system offers the serendipity of high grades.

I cannot recall any competition of such intensity that students were “afraid to share their ideas and to help each other because they [were] worried that the people they help[ed] [would] get better grades.” Indeed, thanks to the cooperation among my four roommates in my last two years of Law School we all learned a great deal more than we might have otherwise and there was no concern that one of us would outdo the others at exam time. (One of the four managed to graduate cum laude. It would be nice to think that we had something to do with his success). I don’t think that we were unique, for I knew a number of study groups which existed in all three years.

That competition exists in Law School is undeniable. I always felt that the competitive spirit which I knew in school was healthy and not of a morbid variety. Indeed, I must agree with Professors Gorman and Leech that to a certain degree the tension and competition denigrated by the SAC are inherent in any legal practice. For those engaged in the representation of indigents, as I am, the tension and competition are always present. If you are representing an indigent client in civil matters, the leases and contracts you will face will be drawn by your opponents. Finding protection for your client in those documents requires an aggressive spirit and a love of competition in trying to beat your adversary. Representation of indigents in criminal matters places upon counsel the added complication that the odds are better than even that his client is factually guilty and he must prevent the prosecution from proving his legal guilt.

If these students plan to do any kind of litigation work they would do well to develop a love of competition. Even an office lawyer must have an appreci-

*(Continued on page 33)*



# NEWS NOTES



Law Alumni Day is slated for April 27th. Details are being made available under separate cover.

The 1972 Law Review banquet will take place on Friday, April 14th. Willard Wirtz, Penn Central trustee, former Secretary of Labor, former professor of law at Northwestern, distinguished statesman, scholar and public speaker—will deliver the main address.

Dean Wolfman has initiated a series of bi-monthly coffee hours for students and faculty.

The New England alumni of the Law School have formed a regional alumni club. The new group will meet for the first time at a dinner in Boston on April 28th. Dean Wolfman will be the principal speaker of the evening. Founding "father" of the club is Patricia Metzger, '66.

The once traditional Barristers' Ball has been revived and will be held at Philadelphia's Warwick Hotel on April 8th.

The Law Alumni Society sponsored its second reception for students on March 3 when it hosted the current second year class in the Student Lounge of the old building. A reception for first year students is planned for April 21.

The Tax Reform Act of 1969 has led many lawyers and directors of family and other private foundations to suggest the termination of the foundations and the transfer of their assets to public charities.

Since the Law School qualifies as a public charity,

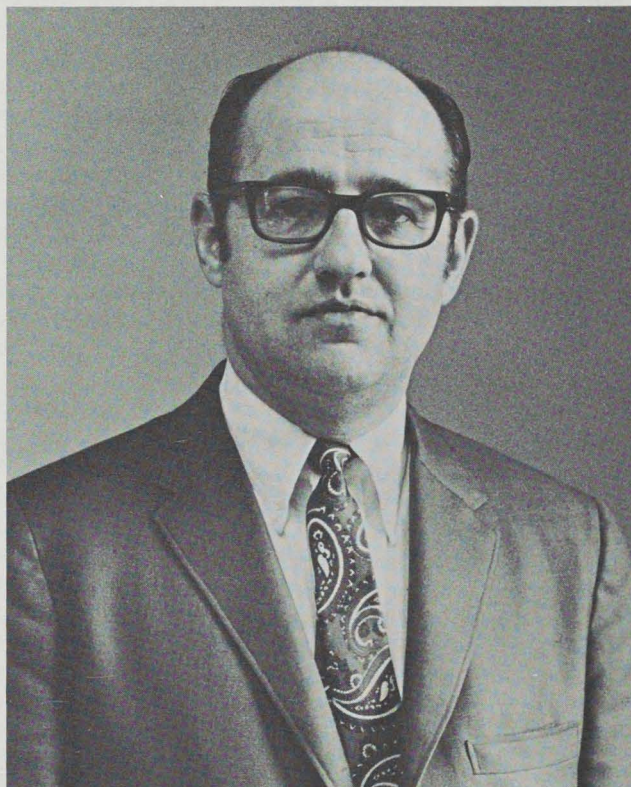
## The Directory

The University of Pennsylvania LAW ALUMNI DIRECTORY was published in April, 1971. Bound in an attractive hard cover, the Directory contains data on living graduates of the Law School in an alphabetical section, a geographical section, and a class section. Over fifteen hundred copies have been sold thus far.

If you do not have a directory, you may purchase one by writing or calling:

Law Alumni Office  
University of Pennsylvania Law School  
3400 Chestnut Street  
Philadelphia, Pennsylvania 19104  
Telephone: (215) 594-6321

The Price is \$10. Checks should be made payable to University of Pennsylvania.



Lloyd S. Herrick

alumni are encouraged to recommend the Law School as the recipient of the assets of any foundation which is about to make a disposition.

Arrangements are possible under which a foundation's assets, or any portion of them, can be held by the Law School in a fashion that perpetuates the name of the foundation or its founders.

Further information may be obtained from Dean Wolfman or from his Assistant for Alumni Affairs and Development, Lloyd Herrick.

An American Bar Association visitation team led by Dean William Lockhart of the Minnesota Law School conducted the decennial reinspection of the Law School on February 8-10.

Nineteen Law School alumni were among a host of recent appointments to trial and appellate benches in Pennsylvania by Governor Milton Shapp.

Appointed to a vacancy on the State Superior Court was Israel Packel, '32.

Appointed to the Philadelphia Common Pleas Court were Alexander Barbieri, '32; Harold J. Berger, '51; Edward J. Blake, '54; Curtis C. Carson, Jr., '46; Doris May Harris, '49; Edwin S. Malmed, '36; Joseph T.

Murphy, '36; William Porter, '54; Paul Ribner, '52; Edward Rosenwald, '34; Herbert W. Salus, Jr., '48; Paul Silverstein, '41; and Harry A. Takiff, '37.

Appointed to the Delaware County Common Pleas Court were C. Norwood Wherry, '53 and Jack Brian, '53.

Appointed to the Bucks County Common Pleas bench was William H. Rufe III, '58.

Appointed to the Montgomery County Common Pleas Court were John R. Henry, '59 and Joseph H. Stanziani, '55.

Topping off the score of appointments of alumni to the bench was the appointment by President Nixon of Robert L. Kunzig, '42 to the United States Court of Claims.

The finals in the Keedy Cup competition, sponsored by the Moot Court Board, will take place on Friday, April 7th.

Serving as judges will be Hon. Harold Levantahl of the District of Columbia Circuit Court of Appeals, Hon. Max Rosenn of the Third Circuit Court of Appeals and Hon. Robert N.C. Nix, Jr., of the Pennsylvania Supreme Court.

Competing will be the team of David Sexton and Spencer Burke and the team of Robert Heim and Frank A. Hester.

The competition will center on a civil rights discrimination controversy.

The Class of '32 will sponsor its 40th reunion on April 28th at the University Faculty Club. Cocktails are slated for 6:30 P.M. with dinner scheduled for 7:00 P.M. A special welcome is planned for "Is" Packel, a recent appointment to the Pennsylvania Superior Court.

*Reproduced below is the eight page letter from Benjamin N. Cardozo to Edwin R. Keedy which has been given to the Biddle Law Library in Keedy's memory by Professor Clarence Morris. (Journal, Winter 1972).*

Allenhurst, N.J.  
Sept. 8, 1929

My dear Professor Keedy,

I have your letter of Sept. 6.

I think it makes a good deal of difference whether the judicial system of the State provides for two appellate courts or only one.

In New York, there were formerly two appeals, and sometimes three. Under our present law, there is only one appeal as a matter of right. If an appeal is then to be taken to the Court of Appeals, it must be allowed by a judge of the court. I think the new rule is an improvement on the old one. My impression is that

it would be better to have the appeal allowed by the whole court rather than by an individual judge. The present system makes too much depend on the psychological or sentimental makeup of the judge to whom the application is addressed. It tends, moreover, to breed distrust of one's own judgment. There is the haunting fear that questions which do not seem substantial to one's own mind, may be looked upon differently by others. The practice would be stabilized if the court acted as a whole.

I have been speaking of a final appeal where an intermediate one, taken as of right, has already been determined. In states where there is only one appellate court, I should not be prepared to recommend that the appeal be made conditional upon the certificate of a judge. More might be said in favor of making it conditional upon the consent of the appellate court as a whole. The requirement of such a consent would, however, lay a heavy burden upon the court which is often overburdened already, and would be likely to cause injustice at times since it is inevitable that motions of such a nature do not receive as careful consideration as would the appeal following allowance. If they did, they would involve a useless duplication of work. The appeal might as well be heard in the beginning.

On the whole, my impression is that one appeal should be granted as of right to a man deprived of the right to life or liberty. The taking of an appeal must be distinguished, however, from a stay of proceedings or supercedeas. In my own state such a stay is not granted (except in capital cases) without a certificate of reasonable doubt. I think this sufficiently protects the interest of the People. Certainly there is no substantial reason why a convict should not be allowed to challenge the validity of a conviction if the pendency of the appeal does not suspend the execution of the sentence. I am not sure but that further restrictions ought to be imposed upon the granting of certificates of reasonable doubt—confining the power, perhaps, to a judge of the appellate court, unless the certificate is granted by the trial judge himself. But that is a question not immediately connected with the subject of your inquiry.

I have jotted down my thoughts very hastily and imperfectly. I shall be in New York after Sept. 17 and shall be glad to discuss the subject with you if you think a talk would be desirable.

I am with kind regards, Faithfully yours.

Benjamin N. Cardozo

Professor E. R. Keedy

P.S. I ought to add that the quality of the trial judges in a good many jurisdictions is a circumstance not to be ignored.

## FACULTY & STAFF NOTES

Dean BERNARD WOLFMAN has been elected president of the Greater Philadelphia branch of the American Civil Liberties Union. He has served as an ACLU board member since 1965.

Professor PAUL J. MISHKIN appeared on a panel discussing the proposed "Federal Jurisdiction Act of



1971" before the combined Judicial Conferences of the First and Third Circuits in November in San Juan, Puerto Rico.

Professor GEORGE L. HASKINS, recently re-elected president of the American Society for Legal History, has announced that the Society has begun a drive for the preservation and indexing of local legal and court records pertinent to the legal history of the United States from the Colonial period onwards. He hopes this objective can be achieved through a federal records preservation act, the program for which is currently being presented at both local and national levels.

Professor COVEY T. OLIVER was the United States member of a multinational working party which gathered at Geneva January 11-16 and finished a draft convention on Territorial Asylum under the sponsorship of the European Office of the Carnegie Endowment for International Peace and the United Nations High Commissioner for Refugees.

The draft convention will be submitted to the United Nations General Assembly and through it to the Legal Committee of the Assembly. Eventually Professor Oliver expects that this Convention will put into

effect as law the major principles of the U.N. Declaration on Territorial Asylum.

En route home Professor Oliver made a working stop at Madrid where his younger brother is the Economic Counsellor of the Embassy. Both stops brought Oliver information on trade, foreign exchange and investment developments which he expects to put to use in his Spring term course on International Transactions.

Next summer the professor will teach Conflict of Laws at the S.M.U. Law School and then he and his wife plan to charter a small craft and cruise the inland waterways of Europe.

On January 4 Professor Oliver lectured in Spanish before the Inter-American Defense College Study Group on "The United States that Does Not Know Itself" and on "Looking Ahead as to Inter-American Relations: Time of Change." On January 25 the professor spoke before the U.S. Civil Service Commission Seminar on National Decisions on "New Directions in U.S. Foreign Policy."

Professor STEPHEN R. GOLDSTEIN presented papers at two Round Tables at the Association of American Law Schools Convention in Chicago, December 27-29. The first was at the Labor Law Round Table and was on the "Application of the Thesis of Wellington and Winter, The Unions and the City, to Public Education." The second paper was presented



at the Education Law Round Table and was on "Some Hitherto Unexplained Questions in the Law of Procedural Due Process in School Disciplinary Procedures."

# ALUMNI NOTES

1908

LEON J. OBERMAYER, of Philadelphia, received the 1971 Fidelity Bank Award of the Philadelphia Bar Association for "lifelong devotion to the bar and the community."

1918

ERNEST N. VOTAW, of Chambersburg, Pa., has become counsel to the office of Rudolf M. Wertime.

1921

R. STURGIS INGERSOLL, of Philadelphia, has published an informal autobiography titled "Recollections of a Philadelphian at 80."

1928

PAUL S. LEHMAN, of Lewistown, Pa., was honored at a testimonial dinner on January 17th by the Mifflin County Bar Association for his 20 years of service as President Judge of the Mifflin County Common Pleas Court.

1929

HON. ABRAHAM H. LIPEZ, of Lock Haven, Pa., was elected president of the Class of '29 on December 3rd. SAMUEL FINESTONE was elected treasurer and WILLIAM RUBIN was elected class historian.

1936

HON. JOSEPH S. LORD 3d, of Philadelphia, has been named chief judge of the U.S. District Court for the Eastern District of Pennsylvania.

1937

HAROLD E. KOHN, of Philadelphia, has been named personal counsel to Pennsylvania Governor Milton Shapp. He was also elected a vice president of the Greater Philadelphia A.C.L.U. Chapter.

1939

FRANK J. TOOLE, SR., of Shenandoah, Pa., has joined with his son to form the firm of Toole and Toole in Shenandoah.

1943

MARTIN L. HAINES II, of Mount Holly, N.J., is the new president of the New Jersey Bar Association.

1945

ISADORE H. BELLIS, of Philadelphia, has been elected Democratic Majority Leader of the Philadelphia City Council.

1948

HON. HERBERT W. SALUS, JR., of Philadelphia, found himself a layman for only twelve hours between the expiration of his term as a Philadelphia Common Pleas Court judge following a November election defeat and a reappointment by Governor Milton Shapp at year's end. Judge Salus was mentioned in the Winter 1972. *Journal* as a "former" judge. That reference was penned and set in type during the 12 hour hiatus in the judge's career on the bench.

FRANCES PAGES FRIEDMAN, of Lafayette Hill, Pa., has turned to the active practice of law after 23 years as housewife, university instructor, teacher and business executive.

FRANKLIN POUL, of Philadelphia, has been elected a vice president of the Greater Philadelphia chapter of the A.C.L.U. DEAN BERNARD WOLFMAN is the new president.

1949

FRANCIS BALLARD, of Fort Washington, Pa., has been elected president of the board of trustees of



Germantown Academy. He succeeds FRANCIS J. CAREY, JR.

1951

HAROLD CRAMER, of Philadelphia, is the new chancellor of the Philadelphia Bar Association.

NORMA L. SHAPIRO, of Penn Valley, Pa., is the first woman member of the Philadelphia Bar Association's Board of Governors.

COL. EDMOND H. HEISLER, of Eglin Air Force Base, Fla., is presently serving as Staff Judge Advocate at the Armament and Development Test Center at Eglin. He plans to retire this summer and reports that JOHN TESELLE is now teaching at the Oklahoma University Law School.

1952

MILTON P. KING, of Philadelphia, writes to report that he regrets the faculty's rejection of pass/fail.

1953

CHARLES B. STROME, JR., of Briarcliff Manor, N.Y., has been elected vice president and counsel for



the Equitable Life Assurance Society of the United States.

1954

JEROME B. APFEL, of Philadelphia, has become a partner in the firm of Blank, Rome, Klaus & Comisky as has FRED BLUME, '66.

1955

RALPH F. SCALERA, of Beaver, Pa., has been appointed to the U.S. District Court for the Western District of Pennsylvania. He had previously been in private practice and had served as President Judge of the Beaver County Court of Common Pleas.

1956

ARTHUR W. LEIBOLD, JR., of Washington, general counsel of the Federal Home Loan Bank Board was a luncheon speaker at the Federal Bar Association's Briefing Conference on Financial Institutions in Washington on January 13th.

LAWRENCE R. BROWN, of Philadelphia, has become Counsel at the Provident Mutual Life Insurance Co.

WILLIAM J. FENZA, of Allentown, Pa., has been elected vice president and general counsel of GAC Finance Inc.

RICHARD V. HOLMES, of Philadelphia, has been



elected secretary of the Smith, Kline & French Laboratories corporation. He was also named vice president, corporate law.

EDMUND S. PAWELEC, of Philadelphia, was elected to the Philadelphia Common Pleas Court in November 1971.

1957

HARDY WILLIAMS, of Philadelphia, has become a member of the Pennsylvania State University Board of Trustees.

1959

LOUIS M. TARASI, JR., of Pittsburgh, of the firm of Conte, Courtney, Tarasi and Price, was involved in the settlement of a \$1 million plus personal injury case—the largest ever in the U.S. District Court for the Western District of Pennsylvania.

1960

SILAS SPENGLER, of Mt. Kisco, N.Y., has been appointed to the Board of Directors of the Jennie Clarkson Home for Children in Valhalla, N.Y.

NICHOLAS D. VADINO, JR., is a co-recipient of the Lawyers Club of Delaware County, Pa. "Man of the Year" award.

RICHARD D. RIVERS, of Fairfield, N.J., has become general counsel and secretary of Bio-Medical Sciences, Inc. in Fairfield.

1962

STEPHEN J. MOSES, of Hackensack, N.J., announces the formation of the firm of Moses, Aron-

sohn & Kahn.

LEIGH S. RATINER, of Washington, has received the Meritorious Civilian Service Award for his work as Attorney-Adviser (International) in the Office of the General Counsel, Department of Defense.

EDWARD A. SAWIN, JR., of Philadelphia, has been appointed Vice President—Investments of Scudden, Stevens & Clark.

1963

PETER HEARN, of Philadelphia, is the new chairman of the Pennsylvania Council of the National Council on Crime and Delinquency.

FAITH RYAN WHITTLESEY, of Haverford, Pa., has filed as a Republican candidate for State Representative from the 166th District.

THOMAS LUMBARD, of Washington, has become counsel to the firm of Goldfarb & Singer. He was chief of the Courts, Prosecution and Defense Program division of the Law Enforcement Assistance Administration, U.S. Department of Justice.

1964

JAMES ROBERT PARISH, of New York City, is the author of *MGM Stock Company*.

PAUL D. PEARSON, of Wayland, Mass., is a partner in the Boston firm of Snyder, Tepper & Berlin and a member of the Wayland Zoning Board of Appeals.

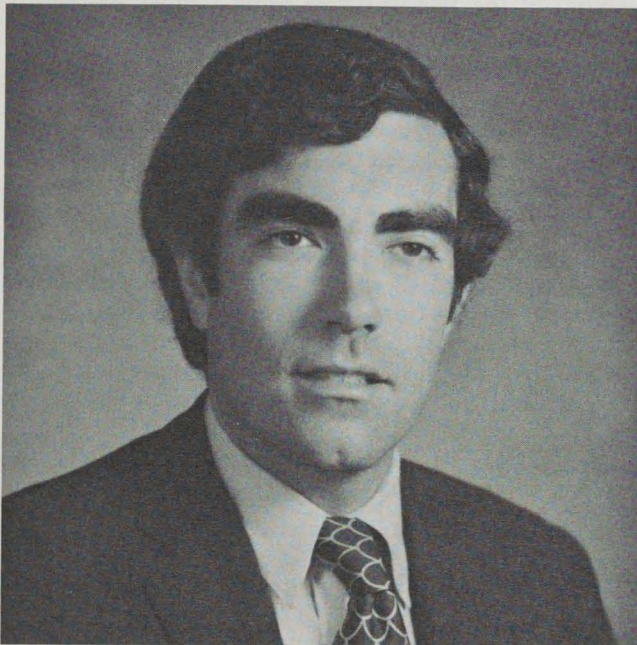
WILLIAM T. ONORATO, of London, is now a tax attorney on the staff of Chrysler International S.A.

MANSFIELD C. NEAL, JR., of Philadelphia, is now associated with the Re-Entry and Environmental Systems Division of the General Electric Company.

JAMES A. STRAZZELLA, of Philadelphia, has been appointed by the Pennsylvania Supreme Court as vice chairman of its Criminal Procedural Rules Committee.

1965

GILBERT W. HARRISON, of Rydal, Pa., has



formed Financo, Inc., in Philadelphia, which offers a professional approach in providing specialized financial services to private and public corporations.

DAVID N. SAMSON, of Newark, N.J., announces the formation of the new partnership of Lieb, Wolff & Samson with offices at 10 Commerce Court in Newark.

RODMAN M. ROSENBERGER, of Philadelphia, has become a member of the Philadelphia firm of MacCoy, Evans & Lewis.

PAUL J. BSCHORR, of New York City, has become a member of the New York firm of White & Case.

1966

ROGER S. COX, of Philadelphia, is now associated with the Philadelphia firm of Blank, Rome, Klaus & Comisky.

1967

ANDREW M. EPSTEIN, of East Windsor, N.J., has become a partner in the Elizabeth, N.J., firm of Epstein, Epstein, Brown, Bosek & Turndorf.

1968

MICHAEL A. GAFFIN, of Boston, Mass., announces the formation in Boston of the partnership of Topkins, Gaffin, Siegel & Krattenmaker.

BRUCE JOEL JACOBSON, of Pittsburgh, Pa., has married Rose Ellen Weinstein, a graduate of the State University of New York at Buffalo School of Law.

WILLIAM MORROW, of Philadelphia, has resigned as an assistant district attorney in Montgomery County, Pa., and is now associated with Irwin N. Rosenzweig in the practice of law.

DAVID A. WILLIAMS, of Morrisville, Vt., after practicing for three years in Rochester, N.Y., has moved to Morrisville to join in partnership with JOSEPH WOLCHIK, '68, of Morrisville, the firm to be known as Wolchik and Williams.

1969

GERALD D. LEVINE, of Hartford, Conn., has left the Hartford firm of Ribicoff and Kotkin to assume the position of associate area counsel, Hartford area office, U.S. Department of Housing and Urban Development.

RICHARD P. SILLS, of Arlington, Va., has completed a two-year clerkship with Judge Charles R. Simpson of the U.S. Tax Court and is now employed as an attorney-adviser for tax legislation in the office of the chief counsel for the Internal Revenue Service, Legislation & Regulations Division in Washington, D.C.

ROBERT R. RADWAY, of Cambridge, Mass., is a staff attorney for Sanders Associates, Inc., a New Hampshire electronics firm.

PAUL WALKER, of Los Angeles, Calif., has joined RICHARD SIMON, of Los Angeles, at the Los Angeles firm of Kadison, Pfaelzer, Woodard & Quinn.

JOSEPH G. SANDULLI, of Boston, Mass., is now associated with the Boston firm of Angoff, Goldman, Manning & Pyle, representing labor organizations.

1970

STEPHEN L. BLUMBERG, of Cleveland, Ohio, is working for International Management, Inc., a Cleveland firm managing such celebrities as Arnold Palmer and Jean-Claude Killy. He was transferred from the Cleveland to the London, England office in March of this year.

RICHARD T. TOMAR, of Washington, D.C., is in private practice in Washington.

ARTHUR M. LARRABEE, of Narberth, Pa., has been elected a trustee of the University. A member of the Philadelphia firm of Goodis, Greenfield, Henry, Shaiman and Levin, he is an instructor in real estate

law at the King of Prussia campus of the Pennsylvania State University.

RICHARD M. STONE, of Harrisburg, Pa., is associated with the Harrisburg firm of McNeese, Wallace & Nurick.

HENRY J. LUNARDI, of Philadelphia, is associated with Philadelphia attorney A. Charles Peruto.

1971

BARRY J. LONDON, of Washington, D.C. is associated with the Washington firm of Cohen and Uretz.

STEVEN A. SKALET, of Washington, D.C., is associated with the Washington firm of Melrod, Redman & Gartlan.

## NECROLOGY

1905

JOHN G. CANDOR, Williamsport, Pa., March 3, 1971  
MARSHALL S. REYNOLDS, Cheyenne, Wyo., December 14, 1971

1908

GARRETT A. BROWNBACK, Norristown, Pa., February 3, 1972  
OTTO KRAUS, JR., Drexel Hill, Pa., December 28, 1971

1910

PHILIP STERLING, Philadelphia, January 11, 1972

1911

ARTHUR M. EASTBURN, Doylestown, Pa., December 15, 1971

1913

EDWARD T. CURRY, Haddonfield, N.J., January 14, 1972

1914

GEORGE A. FERNLEY, Plymouth Meeting, Pa., January 27, 1972

1915

RALPH W. CROWELL, West Springfield, Mass., November 18, 1971

1917

JOSEPH H. LIEBERMAN, Philadelphia, January 21, 1972

1927

ROBERT H. ARRONSON, Philadelphia, January 28, 1972

1929

FRANCIS J. DENEEN, Harrisburg, Pa., December 21, 1971

1933

ARMAND CONN, Bethesda, Md., January 7, 1972

1935

WILLIAM H. PEACE II, Spring House, Pa., January 14, 1972

HARRY E. SPROGELL, Philadelphia, January 1, 1972

1937

LOUIS S. HANKIN, Philadelphia, December 8, 1971  
WILLIAM A. O'DONNELL, JR., Pottstown, Pa., December 3, 1971

1941

JOHN L. SPURGEON, Uniontown, Pa.

1952

FRANK E. VITTORI, Camden, N.J., December 12, 1971

1953

HON. WILLIAM J. MCLAUGHLIN III, Philadelphia, December 15, 1971

1957

CHARLES S. WILSON, Havertown, Pa., November 3, 1971

## Cramer

(Continued from page 4)

the Internal Revenue Service with a view to obtaining regulations which will remedy the tax problem and legislation is presently pending in the Congress to amend the Taft-Hartley Act to put prepaid legal service plans on the same basis as other health and welfare programs. Other problems to be overcome include defining who is the insured; the uneven distribution of the need for legal services; determining the benefits that will be made available; and protecting against abuse by lawyers and clients when the amount of legal services is, in reality, regulated by the value of the interests involved.

In addition, there are no meaningful statistics available to determine how the plan would be created to make it actuarially sound and what would be the

included services available to the subscriber.

Notwithstanding these obstacles, it is my belief that prepaid legal service plans are inevitable. I firmly believe that such plans are desirable from a professional point of view and that they are beneficial to the community. The plans must be structured so that quality services are furnished under professional standards; and that they meet the needs of the community and the profession.

## Seminar

(Continued from page 5)

assist in defining the subject areas requiring particular attention. Others were contacted in less formal ways. Homer Kripke, in Philadelphia to address a Law School Forum in the evening, spent an afternoon with the group. Other consumer experts were consulted.

such as David Scholl, head of consumer activities for the Philadelphia Community Legal Services program.

Finally, moving to the specific, the drafting of the proposed legislation was undertaken in conjunction with another Law School seminar in Legislation conducted by Associate Professor David B. Filvaroff. A crucial part of the drafting process was a comprehensive survey of all available state, federal and model legislation in the consumer protection area and an attempt to analyze it in terms of Pennsylvania's particular requirements. The group also attempted to determine the practical, "real world" functioning and effects of such legislation.

The subject of numerous long hours of meetings and drafting sessions, the outcome was a 162 legal-paged "Consumer Protection Act of 1972," consisting of twelve articles and complete with explanatory appendices, covering the range from "Unfair Trade Practices" to "Class Actions" to "Limitations on Creditors' Agreements and Practices." The final draft was submitted to the Governor's Task Force to be considered along with other proposals and hopefully to make some contribution to consumer protection in this Commonwealth.

This particular student-selected and student-directed seminar can only be termed a clear success. It is plain that the catalyst of voluntarily shared mutual interest in a given problem can lead to exceptional enthusiasm and hard work. I think that this initial experiment was specially blessed with both an excellent current basic source book organizing the subject area and a specific current project of obvious relevance on which energies could be focussed. Whether the seminar would be as successful with a more diffuse subject matter and a less obvious "point" to it all is more problematic—but what else are experiments for?

Postscript: The Law School now has a consumer-oriented offering, Professor Martin J. Aronstein's mini-course entitled "Commercial Law for Consumers."

## Carter

*(Continued from page 8)*

be in Philadelphia the following week and could I meet him in Rm. 538 of the Bellevue-Stratford Hotel at 6 P.M. Tuesday night, April 6th.

That was the day a great snowstorm hit Philadelphia by surprise. The governor was to come down for a press conference, and then receive another citizenship award from the Golden Slipper Square Club.

I arrived at the hotel at the appointed time, but the governor—already beginning an apparently unavoidable tradition of being late for appointments—had been unable to come by helicopter and had to travel

by car. It looked like our meeting would then be at 7:30. The dinner was also at 7:30 and the governor asked me if I would wait around until it was over.

So I marched into the banquet with all the state policemen, newsmen and supernumeraries and had dinner at their table. The governor gave a speech that sounded strangely reminiscent of the speech he gave the AJA Lawyers Dinner. To my surprise, the jokes worked a second time.

The banquet ended and the governor's bodyguard told me I would be seen at the chief executive's car in front of the hotel at 10. At the appointed time I was standing under the hotel's marquee when a Philadelphia plainclothesman came up to me and said, "The governor will see you in room 1734." . . . , not room No. 538, Very mysterious.

Here it was about 10:30 P.M. . . . and what now? I entered to find the governor with Norval Reese, Ed Tennyson, and Gordon MacDougall deep in discussion as to what legal remedies should be followed in connection with the AMTRAK revisions to passenger train service. What a bad break . . . I knew nothing about it.

The next half hour was tortuous. It had been my understanding that AMTRAK put passenger rail service under federal jurisdiction; I reasoned that Pennsylvania public utility lawyers had no longer to worry about it. Everyone present discussed various aspects of AMTRAK while I remained silent and tried to keep a reasonably intelligent expression on my face. Frankly, I spent most of my time examining the contents of the room. I was a little disappointed—there wasn't a single bottle of whiskey or even a woman to be seen anywhere. Moreover, no one was smoking a cigar—once the symbol of political intrigue. No smoke filled room? It was hard to believe, and shattered was another boyhood illusion.

In any event, sometime after 11 the governor kindly said, "Lou, can I drive you home?"—"Certainly, Governor," I said with aplomb. I was getting very good at that speech.

So we went down to the governor's car. The snow was still falling. The driver made a U-turn on Broad St. and, as we went north around city hall plaza and passed in front of Wanamaker's, the governor said, "Lou, how would you like to be on the PUC?"

Shazzam!—So, there it was at last! I didn't want to repeat my stock 'certainly Governor' so I paused and carefully said, without flinching, "I'd like that very much Governor." And all the while, my heart pounding as I swear I saw the Wanamaker window mannequins smile and applaud the Governor's words. I hastened to mumble that I wasn't Herb Denenberg. I guess he understood because he said something like—"I realize that!"

I also told him that one PUC member could not have a great impact on almost 60 years of regulatory law in Pennsylvania. He knew that too, because he next asked me if I was friendly with Richard Tilgh-



man, the senator from Montgomery County and a very staunch Republican. I told the governor I didn't know him, but then he replied, "There won't be any problem. Dick's a good fellow." Then he said, "Keep the matter under your hat and I'll be in touch with you again."

Ten days of silence ensued. The feeling of elation was subsiding and disappointment began to gnaw at me. I heard nothing at all. Then one day a Mrs. Smith from the governor's office called and asked for my biography. With a great sigh of relief, I dictated it to her. The deluxe version—that is—complete with my record as an MP Lieutenant in World War II (for the hard hat Senators) and my membership in the musicians union (for the labor vote).

I was instructed to come to Harrisburg the next day, Friday, April 16. I was to be introduced at a press conference where announcement would be made of the submission of my nomination to the state senate.

I dressed conservatively that morning. I planned to take the 9:30 train from Paoli to Harrisburg. As I drove to the station, I heard on the radio that the governor was in Philadelphia trying to settle the SEPTA strike. Had I made a mistake—on the day? I stopped and called the governor's office to find that yes, the nomination is off . . . then no, it's on, come to Harrisburg anyway. I half-heartedly boarded the train, rode it with some misgivings and arrived at the Capitol a little concerned.

Well, it did take place. I was introduced to the press corps by Lt. Governor Ernest Kline. I was photographed and cross-examined by the press corps. I made a small speech about all the wonderful things I would do as a PUC member. It was a truly thrilling day—surely it would be reported coast to coast—and perhaps make the London Times too.

None of this ever reached the press . . . except for a Saturday story in the Evening Bulletin, which in Philadelphia nearly everybody doesn't read that day anyway. But the nomination was made, and all that remained was to be swiftly sworn in. . . . I thought. Confirmation followed rather slowly. . . . so slowly in fact, I thought it would never come. For a while I believed that I would break the nine-month waiting record of my predecessor Bill O'Hara of Scranton. However, my stay in the wings took only seven months, happy that Bill's record remained intact. I was confirmed November 9, 1971, a date circled on all my calendars for posterity in indelible red ink.

I am not really in a position to evaluate to what extent politics was involved in my confirmation delay. I was unknown to most of the senate when I was nominated, though the governor did say some complimentary things which might have led one to believe that I would be a kind of Pennsylvania replica of Ralph Nader or, at least, an articulate consumer advocate.

The delay was at times embarrassing. Many would ask querulously "Why haven't you been confirmed?" "Is there something wrong?" etc. etc.

I think they likened state nominations to the confirmation of nominees to the United States Supreme Court, during which U. S. senators go deeply into the qualifications and philosophy of the individual nominee.

For the most part, confirmation is a matter of whether the senator in question is able to secure for his confirmation vote some quid pro quo benefit. Many politicians seemed to view my nomination as a lever for securing other benefits from the governor—especially since I was unknown and presumably unworthy of high office.

Many senators were frank with me. Regularly, the response would be, "Lou, there's nothing personal in the delay. It just hasn't come up." Or, "There are other problems that have to be resolved."

None of the Governor's appointments had been confirmed by the Senate—except for his Cabinet—to which the Senate felt he was entitled. My nomination seemed to be tied in closely with that of Maurice Goddard for Secretary of Environmental Resources. He shared my vigil because of differences over a dam he proposed in Evansburg, Montgomery County. (During the delay, friendly reporters used to add to their Goddard stories, in a kind of "by the way" manner, that "Carter is also still waiting to be confirmed by the Senate.") Goddard had for 20 years been Secretary of Forests and Waters, but could not get confirmed either. In all candor, I found solace in that.

In a way I will probably never really know, the senators' problems were resolved and Goddard and I were confirmed November 9th. To everyone's surprise, my confirmation was unanimous. That, I brazenly submit, was heraldic.

The next step was to be sworn in. The Governor's schedule indicated that I would actually clinch it at the KYW-TV Station, where he was making a tape. But governors, it seems, never really know what their plans will be, and so, after the long, long wait, I hurriedly took the oath. Thus, on November 10, 1971, before my wife and children, my in-laws, and my associates, Malis and Tolson, Esquires, I reached the pinnacle in a small room at the Warwick Hotel. Intoxicated with the joy of fruition (and some say I was temporarily out of my mind) I sprung for the beer. My mother-in-law had coffee and cake.

In retrospect, and seriously, it seems to me that the process of confirmation has become overly political. Perhaps the solution lies in administrative due process. Where a nomination has been submitted and a vote is not taken in the Senate within three months, the Governor should have the right to call for immediate hearings.

The issue would then be decided by a panel chosen by the justices of the State Supreme Court. Failure to find material objection would then allow the nominee to assume office after, say, 30 days.

And so I re-visited the PUC. The reception of many

old friends was reassuring. In a sense, it was like returning home. It brought back memories of when I was an assistant counsel. Working conditions were then anachronistic to the nth degree. Some dozen or so lawyers were distributed through three rooms, including the library. We had no conference room, no dictation equipment, and no photostat machine. Worst of all, we had no privacy. I solved one of the problems by bringing my own dictation machine to Harrisburg, dictating most of my long-form orders and decisions at home or in Shangri-la. Shangri-la was an almost windowless room behind the main hearing room of the PUC. I would often seclude myself there with my dictation machine and happily go about talking into it summaries of 2000-page records and analyzing weighty exhibits. No engineer worth his salt, by the way, submits exhibits of trended original cost or depreciation reserve that weigh less than 5 pounds, or are less than 3 inches thick.

Fortunately, for those who practice before the Pennsylvania Commission, we do not require summaries of the testimony to be submitted. Many Federal agencies do require summaries, and it is unfortunate for our staff that we don't. Now that I am a Commissioner, I hope to remedy this problem and make the life of all succeeding assistant counsel more livable by requiring summaries and recommended findings and conclusions of law.

Withal, the duties of assistant counsel for the PUC are, except for law school, the greatest educational method in government. There is opportunity to handle an extraordinary number of matters involving administrative law, motor carrier law, public utility rate regulation—combined with engineering and accounting. There was great esprit de corps in the commission when I was there. . . . a desire to do the finest quality work. Much of this esprit came from our then Chairman, Joe Sharfsin, and our chief counsels, Tom Kerrigan, Joe Lewis, Joe Bruno and Ed Munce, all deeply committed men with extensive backgrounds in the field. Not a little of this arose also from two other factors; first, the high quality of counsel for the private utilities and the virtual lack of opposition on the consumer side, and second, the ease with which our appellate courts could always find that there was substantial evidence for our findings. Notable exceptions to my statement as to lack of consumer counsel were those stalwarts representing the cities of Philadelphia and Pittsburgh, Harold Kohn, Bill Coleman, Al Brandon, Tom Shearer, and the late Dave Stahl to name a few.

One little vignette. Once—early in my work as a counsel for the Commission—I had an extensive transportation case argued before the Superior Court in Pittsburgh. The case involved many carriers, each represented by their own counsel. Argument started at 11 A.M. and by 12:25 had still not been concluded. In fact, I still had to argue my brief.

I could see that the court was getting edgy, probably

hungry and certainly bored. I knew that I was, I had left Philadelphia at 4 A.M. that morning to drive to Pittsburgh. I felt the legal position the Commission had taken was correct and knew, as did everyone else, that everything to be said was already in the written brief. I chose courage over law. I made what was, and still is, my shortest and most successful appellate argument. In 60 seconds, I told that the case had started the year my daughter, Audrey, was born, that she was now a five-year old . . . grown-up and a lady, that the Commission had over this period given fullest consideration to all the evidence in the case and, in my humble opinion, the Commission's decision was correct. I then sat down. Thereupon, President Judge Rhodes adjourned the court and we went to lunch. The Commission case was won.

As a lawyer with some experience, I must say—again with considerable immodesty—that I am seldom plagued by self-doubt. But, now I sometimes wonder why I felt elated when, knee-deep in regulatory affairs at Harrisburg, I wince over the thought of a deteriorating practice in Philadelphia. I have one client, the Commonwealth of Pennsylvania, which seems to have replaced 90 percent of my other clients (bless 'em), and takes an equal percentage of my time as well.

Upon becoming a Commissioner, the thing that surprised me most<sup>1</sup> was that seven months spent waiting and reading Public Utilities Fortnightly, the New York Times, Business Week, The Wall Street Journal, the Bulletin, the Inquirer, and Gas and Pipeline Journal, etc. etc., were wasted. I should have been taking a speed reading course. In the idiom of one lamp manufacturer . . . "reading is our most important product."

The Commission operates this way: the recommendations of the staff are prepared on a purple ditto (known as a "purple") and submitted to the Commissioners. Mine are delivered to my home by special delivery mail Friday, Saturday, or Sunday, in preparation for a Tuesday meeting called "the Session." (Did you know that almost all special delivery is delivered before 6:30 A.M. . . . did you know that certain breeds of dogs—at least mine—bark only at mail trucks?)

In any event, it's helpful to have staff reports prepared, but nobody told me it would take from four to eight hours of steady reading to merely peruse them once. This doesn't include time spent on analysis, personal reading of the record, law and accounting research, or discussion with the staff and lawyers who practice administrative law not taught in law school. . . . They "just happened to be in the building and stopped in to say 'Hello' "

I've told my friends with tongue in cheek that because of the tremendous amount of time I'm

<sup>1</sup> Well not exactly, the most surprising thing was my difficulty in securing my first pay check . . . it seems you can't get on the payroll without having first filed an application. I had never applied for the job.

spending with the Commission, I'm considering a suit against the Governor on some grounds—including perhaps that of misrepresentation. But the fact is, of course, that he made no representations at all, and I guess I'm stuck—really happily—with being a regulatory Commissioner and administration-anointed consumer advocate. It is challenging and important, but I never thought it would be so fatiguing. Since the PUC is a quasi-judicial administrative board, and I a quasi-consumer advocate—it is small wonder the fatigue makes me feel, at times, like a quasi-person.

It is clear that the consumers want advocates. Letters arrive daily from irate customers. They complain mostly that their bills have been increased and ask me to do something to keep prices down. Many of these folks are retired and living on fixed incomes. I try to answer all these letters and ignore the sometimes derogatory things that are said about the other commissioners. (I haven't been on the Commission long enough to have uncomplimentary things said about me—my day will surely come). Some utilities do require increases. Uncontrolled inflation harms us all and utilities have a right to recover their expenses and earn a fair return. I believe that Bernard Baruch was right when he said, in substance, that he could not tell how one becomes a success, but could tell how to become a failure: try to please everybody. But I do keep trying to please the customers, (and I try even harder when the letter is transferred from the Governor's Office).

What I hope to overcome is the fact of life that the Commission is to a great extent isolated from the public, but not from the utilities. When a utility seeks an increase, its representatives often visit our Commission staff to discuss the proposal to be submitted. Though I have in mind plans to adjust this procedure, there is nothing sinister, for these are matters of a very technical nature. There is, further, no member of the public who if called in would understand the discussion. Nor can the general public be expected to comprehend the intricacies. One day in the not too distant future there may, if administration legislative proposals are approved, be a consumer advocate and a staff to represent the consumer interest at the very earliest stage.

At present, our staff strives to negotiate the lowest possible rates. Often there are several meetings with a view towards reduction by agreement. If a formal suspension takes place, negotiations continue through the pre-hearing conference. Formal public hearings follow in absence of agreement.

It should not be overlooked that in the case of very small utilities (some earn less than \$10,000 per year) the cost of trying the rate case may equal or exceed the amount of the increase sought.

Overall, at the present time, there is little or no input by the consumer. From the start, when a utility seeks to increase rates, the Commission staff makes a preliminary determination whether to suspend rates, go

into hearings, or grant part or all of the relief. The consumer is heard only to the extent that he is represented by members of the Commission staff and by the Commissioners.

One cannot avoid the conclusion that there are also subtle psychological factors at play in a situation like this. These factors are even more difficult and more delicate to handle at social events. I understand that at the conventions of the National Association of Regulatory Utility Commissioners—which are, of course, regularly attended by our Commissioners and some of our staff—there are no cocktail parties given by consumers' groups but only by representatives of the utilities. I haven't had the pleasure of attending any of these, though I know they exist, and any definitive reactions thereto must await the event. Such intermingling, I'm sure, raises questions about ethics, but I am preliminarily disposed to discount what fear it might generate about regulator-utility hanky-panky.

Often I find myself asking—what's the proper role of the PUC Commissioner, how responsive should a regulatory body be to the demands of the consumer? Certainly one should not follow a uniformly obstructive or negative policy in which all requests for rate increases by utilities are greeted with a "no" or a dissent. Such a position would have the luxury of simplicity, but would neither be honest, nor lawful under the Public Utility Law requirements, and certainly not fair to all litigants. In any event, dissent purely as a grandstand play would—and should—be unmasked as self-serving deception.

Utilities are entitled to a fair return on their fair value. Where we get into trouble is adjusting and fixing these two items in a fair way—the task seems sometimes like that of a man trying to shoot a moving target from a vehicle that is also moving. The size of the utility plant keeps changing due to inflation and depreciation. Interest rates also constantly fluctuate. Perhaps the only constant is rising demand for power. This issue is simple for some regulators. They seem to believe that all rate bases and all rates of return move in only one direction—up. Since both are moving in the same direction, it's easy to conclude that whatever is requested should be granted.

Some observers believe the acceptance of all requests for rate increases is linked to what is called a "growth mania." The proposition runs like this: if the need for electricity is increasing and the desire of everyone is to have more power available, then whatever the producer of electric power requires by way of rates should be granted in order to ensure that the demands for electrical current will be met.

The other extreme is occupied by those who want the hill rather than the electric power plant.

The answer of course lies somewhere in between the two extremes. The wise regulator must concern himself with deciding what is reasonable. I think it was Justice Stone in the Trenton Potteries case—(Professor Lou Schwartz will correct me if I am wrong on this)—who said this. "Reasonableness is not a

concept of definite and unchanging content. Its meaning necessarily varies in the different fields of the law, because it is used as a convenient summary of the dominant considerations which control the application of legal doctrines." 273 U.S.392 (1927).

That about sums it up. We must provide the funds to meet the needs for power, but we must not foresake environment and other considerations in reaching that end. Some students of the subject believe that there is a direct connection between the increased use of power and the number of unemployed. Query—if true: is this social factor relevant in a proceeding before a commission concerned with providing rates to fund facilities of an electric power plant?

The advent of federal price regulation (or the absence thereof) has made our work even more difficult. Fortunately for the growth minded, the restrictions of the price commission mean little or nothing. The goals and purposes of the Economic Stabilization Act have to date been given equal weight with the criteria utilities seek as a basis for higher rates, e.g., a utility must have earnings sufficient to attract capital. . . . unless it can attract capital, it cannot proceed with its construction, and it cannot meet the demands of the public. The public is demanding power for more air conditioners, dishwashers, and TV sets, and this demand should be met. Therefore, the price guideline must permit a rate increase.

Well, I'm still new enough in this field to have some questions. But I must hastily add that not all of my conclusions are firm enough to permit me to give a complete or even partial answer to this most difficult dilemma.

The obligation of a Commissioner in his day to day work is, as I see it, to probe constantly, asking why we do things the way we do, asking why we accept the assumptions that we always have, asking for instance, why there must be plant expansion even at the expense of borrowing money privately at 9 per cent or more when the prime rate today is down to 5 per cent and some say lower.

What of the future?

Shortly after my nomination, the Governor made the statement that he intended to do away with the PUC entirely. None of us on the Commission laughed at this, but when Bill Hyland, Present of our law alumni, announced it at our last gathering, it certainly brought forth laughter and cheers from my fellow law alumni.

By the time this article appears, the Governor is expected to have submitted to the General Assembly, a proposal to create a Department of Consumer Affairs, raising its head to cabinet level. The new department is expected to include the PUC, the Bureau of Consumer Protection, Weights and Measures, the consumer loan division of the Banking Department, and the Insurance Department. Also, an office of consumer advocate would be established.

That proposed legislation may present to the law-

makers an opportunity to test the validity of the report of President Nixon's Advisory (ASH) Council on Executive Organization. The issue is between those who believe in the collegium approach to rate regulation—primarily in insurance and utility regulation—as contrasted with a single administrator. In other words, those who feel a board of several members is best, and those who feel that quicker and better action can be achieved through departments run by one man.

Many believe that Herbert Denenberg's performance as Secretary of Insurance demonstrates that one-man rule will achieve better results. Unfortunately, Denenberg's attitude toward lawyers who make their living trying personal injury cases may cause the legislature to avoid this otherwise valid suggestion. But this is not a discussion of no-fault auto insurance and I mention it merely to indicate one of the 'political' problems that could arise. Were another man in charge of the Insurance Department, this issue might be viewed in a different light.

The one-man approach has not been too well received by many scholars and for a variety of reasons. My own feeling is that "two heads are better than one," and that, when important decisions are to be made in complicated matters, it is beneficial for there to be more than one judge, more especially when the matter lends itself to an adversary proceeding, as in a rate case.

Une one-man rule, we might have truly consumer-oriented actions, (as Herb Denenberg's supporters claim). But there may be others who, if placed in control of a consumer agency, would carry out the duties in a different manner, perhaps even for the benefit of those he regulates.

Moreover, unless superman is appointed, the net effect of complete one-man rule is to turn over to the heads of staff almost complete power to make final decisions. The volume of work would make it impossible for one man to properly carry out his duties. I think it would be far better for a number of regulators to be made responsible for specialized areas (gas, electric, transportation, etc.) in which to work with the various staffs.

Further, assuming there is one-man rule of various agencies, certainly those agencies would reflect to a greater extent the opinions of the then-governor. By voting out the governor, one has in effect voted out the heads of all such bureaus as insurance, consumer affairs, milk marketing, and the Public Utility Commission.

My proposal, formulated with the aid of our new and eminent Chief Counsel, Philip P. Kalodner, (some Harvard law graduates are highly competent) is that when a utility seeks to raise its rates it should file a petition with the Commission operating as a kind of Utility Court. An answer to the petition would be filed by the Consumers' Advocate, acting as a respondent. The case would then be handled on an adversary basis. The PUC's Bureau of Rates and

Research could appear and press its position for one side or the other, or, as an independent, somewhere in between. In any event, the staff recommendations would be public and this due process benefit, would, I think, be of immeasurable value.

At this writing, the exact nature of any reform at the state level is indeterminate. But steps are afoot to make regulatory bodies more responsive to the consumer. Any reforms are of course dependent on the politically possible.

One other problem of the PUC—the need for more young and well trained lawyers, accountants, utility analysts, etc. A great deal needs to be done to provide more instruction in the utility field so that there will be qualified people to continue this work. It's an area in which the consumer can take part, and of course an area in which he is almost daily affected. The American Bar Association's Public Utility Committee is working on the problem of providing more utility instruction in the universities and law schools. The "new breed" of lawyers need new skills.

In the future, we will not only be concerned with rates, but also with such matters as the reliability of electric power, and cost-benefit analyses relating the rates of a utility to the needs for certain protection against radiation or pollution. Recently, the New York Public Service Commission required utilities to set aside a portion of their budget for research and development in these areas. We need much more contact between lawyers and the scientific community, so that attorneys may better understand their proper role in proceedings before the Atomic Energy Commission.

And so I wonder why it is necessary to teach first year students labor law. It seems to me they'll run smack into their own electric bill long before they encounter the Taft-Hartley bill. They'll only feel frustrated if they are unable to do anything in their own behalf. So I move that the University of Pennsylvania Law School commence a series of lecture-seminars in the field of utility regulation, energy needs and the environment, with PUC Commissioners plugged in. Will you second that Bernie?

## I.C.M.

(Continued from page 10)

istrator from New Jersey.

It is a lively debate, covering real issues of judicial administration:

*Should a Court Administrator be a Lawyer?*

The strong non-law-trained personality from Los Angeles says, "No need for an administrator to be anything other than a professional administrator. We're talking about a Court business manager—someone who handles budget, personnel, maintenance, scheduling, and jury selection . . . none of these activities requires a law degree. In fact, my experience with law-trained Court Administrators is that they're so busy aspiring to be Judges, they don't

really manage the work of the courts."

"Well," responds the Court Administrator from New Jersey, "Perhaps you're right on a trial court level, but it's definitely to your advantage to be a lawyer if you're going to do the job of a State Court Administrator. As State Court Administrator, you are the link between Judges of the Supreme Court who render important and extended legal opinions, and the Public and press who want a simple explanation of the opinion. Furthermore, to make changes in the way a court operates many times requires knowledge and understanding of the statutes and the Law."

*Should a Court Administrator seek an identity and authority apart from that of the President or Chief Judge of his Court?*

"Yes," the former Court Administrator would reply, who's been successful in doing this himself. "Probably not," would be the State Court Administrator's answer, who has been equally successful by not employing the power and authority technique.

*Should a Court Administrator of any court perform more duties than those now being handled by the Court Clerk or the President Judge's Secretary?*

"By all means," all panelists agree. "Functions in the court which should be performed if a true justice system is to be made operational include:

- Fiscal, personnel, facilities management.
- Court records management.
- Information management and dissemination.
- Court control of Judge, jury, and case scheduling and assignment.
- Liaison with defendants, police, correctional institutions, District Attorney's Office, etc.
- Liaison with Public groups, Bar Association, press, etc.
- Appropriate liaison with legislative and executive bodies.
- Continuous evaluation of justice system's operation.
- Creation of climate to spark innovations and changes within the system.

All of these functions can—and should—be performed by a Court Administrator."

That session—and many like it—was good news. Now for the bad news. It is 4 P.M. and time for a Community Council Meeting—after a break, of course:

"The baby and toddler-sitters have gone back to Oklahoma City; we'll have to share each other's older children and spouses from here on out. Starting yesterday, fellows will be charged \$.04/page to copy things on the Institute's xerox machine for distribution to the class. Due to lack of interest and time before we leave for home, the pool tournament has been cancelled. Please turn in your evaluation sheets of last week to the staff member in charge of evaluating the Institute's program—put your name at the top. The Committee to Evaluate Whether or Not We Want to Present Funny Awards at the Going-Away Dinner has

decided that there's no way to screen the texts sufficiently so that we can be assured that no fellow or spouse will be offended, and therefore we won't have awards."

Court Administrators are pretty sensitive about things like receiving awards. Democracy has prevailed; it's 4:50 and you've got 10 minutes to change into tennis togs and make it to the bottom of the mountain to your reserved tennis court.

Ah, the sport. The air. The sun. The sky. The mountains. An unbeatable combination. But again you must be careful in your excitement not to take too many gulps of air in too rapid succession—a rather difficult task actually when you're playing a game, and you see the ball you've just served in all innocence come flying back across the net, skidding rather than bouncing on the baseline, go smashing into the back fence. You have the court for half-an-hour; you called two days in advance to reserve it; and you paid good money for it. So you'd better get the most out of it you can. Some call this court administration.

After tennis you can fit in a quick dip in the pool by your condominium if you so desire. We often did. And, as the sun drops behind the mountains, we could be seen streaking from the warmth of our pool to the warmth of our shower.

I wash off salt and chlorine while my spouse quickly builds a fire in our \$1.99 porch grill. Coming from a second floor apartment in downtown Philadelphia, we were complete novices at outdoor cooking—but damned if we would give up a half-cooked hamburger or a hot dog that had fallen through into the ashes. Mainly we just didn't have enough time to let the briquettes burn down and get glowy. I had to be back in class at 7.

Once again there is the fear of being late, followed soon enough by the fact that you are not. Fellows are in a good mood in the evening. Many have seen their wives and kids for the first time all day; some have indulged in golf, others in drink. Plus it's dark outside the astroturf plaza, and there's nothing better to do than to listen, or to talk. We are *all* dressed in sweatsocks, pants, sweaters, and jackets.

Our facilitator for the evening is Captain Kangaroo. Our "learning opportunity" to reevaluate our skills, knowledge, and attitudes on our Self-Diagnostic Guide, a ten-page list of good things that we all ought to do, say, and think. We may choose to check ourselves off as "fair," "good," "very good," or "excellent" beside each of these categories. Of course, the idea is to improve as the summer progresses. And you've done this exercise twice before on the same Diagnostic Guide. But do go on and honestly evaluate yourself.

This trauma completed, we are told to break into groups of three (moan) and to tell two other fellows how we have ranked ourselves *this* time (as opposed to last time) on each of the items on the ten pages, and why. It is unclear what the other two people are

supposed to do or say during this self-aggrandizing discourse.

The evening is pretty well shot. Some groups of three have wandered off to a condominium or night spot to drink anyway. Those of us who stuck it out in the cold learning center are dismissed by 9 o'clock.

Class may be over, but the learning experience continues. Thanks to some of Captain Kangaroo's friendships, our summer is spiced with consultants and managers of COMES—Combined Motivation and Education Service. COMES is an outgrowth of W. Clement Stone's Insurance Company operation, as well as Mr. Stone's hobby of publishing self-help books. The COMES program for managers, of which we were privileged to partake, consists of a tape recorder with nine tapes of instruction, a Success board, a Goals board, and three other boards, plus reams and reams of labels, pithy maxims, arrows, stars, and spots.

The total package course in motivation costs the consumer \$150/hr. But ICM fellows, by merely breaking up into groups of five (moan) can share this exciting experience for free.

Our COMES group included my spouse and me, and we usually met at our condominium after 9 P.M.

For this average evening it's a good guess that we would be doing a green dot sort on our Success Boards, followed by blue corona high-lighting of super-special green dots. We might also be admitting to our group that we were unable to accomplish the easily manageable goal we had set for ourselves yesterday. We would also be eating popcorn, drinking coke, and talking about our pet philosophies of death-*after* the COMES exercise. Sometime around midnight the COMES group would split and go home for 8 hours of respite, before, once again, awakening to clear sunshine in the eyes and a hearty hike up the hill to a coffee break.

And that's it. A maddening, mellowing, marvelously mixed-up day in the life of a fellow.

Of all our listening, lecturing, building up our strengths and tearing down each other, I was most moved and reassured by the calm words of our final facilitator, Justice Murray from Boston, who, just prior to handing us our certificates, clued us in on the real secret of a court administrator's success: common sense, and a sense of humor.

## Shapiro

(Continued from page 11)

During her temporary retirement from law practice, she grew active in local community affairs in Lower Merion. Her past services include: president of the Belmont Hills Home and School Association; Legislative Chairman of the Interschool Council; and Treasurer and Education Committee Chairman of the Human Relations Council of Lower Merion. In 1968 she was elected to the Lower Merion School Board.

Returning to Dechert, Price & Rhoads in 1967 on a flexible schedule, she now specializes in business litigation practicing, for the most part, in federal court in the fields of anti-trust and securities law.

Mrs. Shapiro remembers a law career as being her "definite" goal as far back as her days in 8th grade. At that time she wrote an assignment paper on the life of Florence Allen, the first woman ever to serve as a state Supreme Court Justice. Her determination to be a lawyer prevailed throughout high school and college culminating today in a successful law career.

Her brother Robert J. Levy is also prominent in the field of law. He graduated first in the Law School's class of '57 and is currently Professor of Law at the University of Minnesota.

Mrs. Shapiro is not only a practitioner but also a teacher. She has been an instructor at the Law School in legal writing, the law and psychiatry, and women's rights.

Her most recent teaching endeavor is in this last area. The women's rights course, which she taught last year, explored the legal status of women and the differences in laws for men and women. Rulings on employment discrimination, government benefits, education and poverty law all fell within the scope of the subject. She finds young law students "very stimulating" and was delighted to find *both* men and women taking great interest in her class.

Although she is interested in women's rights law, Mrs. Shapiro is not an embittered follower of women's liberation. However, she is "very sympathetic with the women who want to gain equal employment opportunities and equal pay benefits."

She points out, "Women frequently experience difficulty when being interviewed by law firms out of a concern that women if hired will leave the firm after a limited number of years for family reasons. While this is sometimes the case and so far as I am concerned, desirable, certainly men leave firms or communities for a number of other, perhaps less valid, reasons. Studies have shown that women who do leave practice to have families tend to return. This is especially true when a flexible or less than full-time arrangement is possible, or when adequate child care is made available. Women change jobs for other reasons with much less frequency than their male colleagues so that all in all the turnover for women is about the same as that for men."

In her own career she finds, "My male colleagues at this firm have always been most fair in their attitudes toward my career ambitions." But she admits, "You have to be an above average woman lawyer to gain respect from men. I do recall having a difficult time getting a job when I first came to the Bar. For women today that 'first job' problem is becoming progressively easier as the quality of law-trained women is reaching outstanding heights and women are being accepted more as individuals."

In her professional capacity she is a member of the

American, Pennsylvania and Philadelphia Bar Associations. In the Philadelphia Bar Association, she has been active in both the Medico-Legal and Civil Rights Committees. She also holds membership in the National Legal Aid Association and the National Association of Women Lawyers.

She is the first woman ever to serve on the Law Advisory Board of the University and is also Vice-President of the Order of the Coif.

Her present civic duties include membership on the Lower Merion Board of School Directors and a position as legal adviser to the Regional Council of Child Psychiatry. On the Lower Merion School Board, she is chairman of the Public Information Committee.

Considering Mrs. Shapiro's outstanding qualifications, it would appear that the Philadelphia Bar Association's Board of Governors has certainly "discovered" a most capable woman with which to break its own traditional posture of "for men only."

## Kalodner

*(Continued from page 12)*

"The course represents an uneasy combination of highly technical material with very generalized discussions of the role of the government in housing law as opposed to free play of the parties in the market place."

"The problem with the current approach to housing is that we have set up a tremendously complex system which to an outside observer doesn't come close to doing what it should—that is—enable the poor and middle income people to obtain decent housing."

"The question now is whether or not we are going to shift away from this very complex system of subsidizing the building industry and the bankers to a direct subsidy of the prospective homeowner."

"There is currently a pilot program called Housing Allowance which is operating on a small scale in six cities under the auspices of the Department of Housing and Urban Development. This program gives poor people the money they need and allows them to select their own dwelling place."

Kalodner is convinced that this will take over as the major governmental approach to the housing problem in the near future, but cautions that without additional measures, it may result in merely increasing the prices of the available supply of homes in response to the increased money available for their purchase.

"This would have two undesirable effects," Kalodner says. "First, it would probably cause an increase in discrimination in the sale of homes, and secondly, it would negate the purpose of the subsidy."

"I think we have to recognize that we are really confronting two distinct problems which we haven't done up to now and then tackle them as such.

"We have confused the need for an increased supply of housing with a need for an increase in the income of the poor and middle class person who

desires to buy.”

The other obvious trend in housing, according to Kalodner, is that the entire law of landlord and tenant has shifted from property to contract concepts.

“This change is long overdue,” Kalodner said. “It’s already taken place in the District of Columbia and in New Jersey and will occur very rapidly in other parts of the country.”

This semester—in addition to teaching first year property, Kalodner is teaching a course in environmental law.

The 50 second and third year students enrolled in the course are studying regulatory statutes covering water and air pollution and are also studying legal aspects of solid waste pollution, noise pollution and radiation.

The class will spend roughly one third of the course discussing papers which they have written on specific problems of pollution.

“The first set of papers involves a comparison between the federal and state relation with regard to water pollution control and the state and local relation with regard to water pollution control nnsome specific statutes,” Kalodner said.

“We’re trying to determine at which level of government action is most appropriate on a certain aspect of this problem, and where action is currently being taken and ought to be taken.”

Other topics on which papers have been written include atomic radiation and the Atomic Energy Commission; effluent charges as a system of water pollution control; the constitutionality of a Florida act dealing with oil spills; and the right of an individual to bring an action to enforce the Refuse Act of 1899—an action ordinarily brought by the U.S. Attorney General.

Kalodner, son of Judge Harry E. Kalodner, a senior judge in the U.S. Court of Appeals for the Third Circuit and a 1917 graduate of the Law School, is a Philadelphia native who was graduated from Central High School and Haverford College.

After his graduation from Harvard Law School, Kalodner clerked for Philadelphia Common Pleas Court Judge Joseph Sloane and for U.S. Supreme Court Justice Felix Frankfurter.

He practiced with Schnader, Harrison, Segal & Lewis and served in the office of the legal advisor of the U.S. State Department. He was also a special assistant to the solicitor in the U.S. Department of Labor.

A member of the N.Y.U. law faculty since 1964, Kalodner currently teaches urban housing, environmental law and public education law there. He spent one year as a visiting professor at the Columbia University School of Law.

He is actively engaged in school decentralization in New York City and serves as advisor to the Ocean Hill-Brownsville governing board and the Ford Foundation on that issue.

## Luitweiler

(Continued from page 15)

would harden before being threshed. Doing that on foot from dawn to dusk was another boring job. I relieved the monotony by tucking a book of poetry under my shirt. When I reached the end of a mile row I would take the book out, read myself a poem and recite it at the top of my voice all the way down the next long row. My buddy on the binder listened with silent, amused attention as I declaimed:

“I heard the trailing garments of the night  
Sweep through her marble halls” etc

- or -

“Between the dark and the daylight  
When the night is beginning to lower  
Comes a pause in the day’s occupation  
That is known as the children’s hour” etc

- or -

“Tell me not in mournful numbers  
Life is but an empty dream” etc

I’m sure my buddy thought I was batty but he never reported me to our boss. I learned more poetry—which I still remember to this day—than ever before in my life.

The “fun” really started when the threshing outfit moved in. It was the habit of neighboring farmers to hire a big itinerant threshing outfit to move from farm to farm. The boss of the threshing outfit brought along his regular crew of ‘professionals’, which was supplemented by each farmer contributing his own hired men, whom he was expected to pay himself whether they worked on his own farm or moved, as they usually did, from farm to farm along with the professional crew. Many of the ‘professionals’ were the ‘rolling stones’ of the West at that time—men unattached, without homes, who liked the bottle, a poker game, and whose language was unprintable. These harvesting outfits would start threshing in Oklahoma, where the grain ripened earlier, and moving northward as the grain continued to ripen, they ended finally, after many changes in crew personnel along the way, across the border in the grain fields of Canada. If it rained, they holed up in the barn. It developed their chief amusement was baiting and playing crude pranks on the eastern dude. I was assigned the job of driving a bundle wagon that brought the bundles in from shocks in the field to the threshing machine. I noticed that the other bundle wagon drivers left standing a shock at the end of a row furthest from the thresher. Tipped off by the crew the thresher boss commanded me to go and fetch it. I was to find it housed a nest of skunks, mother and young and I got the “treatment,” to everyone’s amusement. Fortunately the hired man buddy showed me how to bury my clothing in a mud puddle and wash it out the next morning.

We worked until dusk and I was always last to finish



supper in the farmer's house, as I got elbowed away from the table until all the others finished. One evening the gang removed the set of steps from the kitchen door and substituted a hog's head of swill. When I stepped off in the dark into it a chorus of guffaws greeted me. This association was the best education I ever got in holding my tongue and restraining my anger.

But finally I protested to the thresher boss that one of his crew was bullying me beyond endurance. He was a giant of a fellow who had also been hounding other members of the crew.

Said the boss: "The next time he does it take your pitch fork to him." I had more guts than prudence. When the bundle wagons were lined up to unload at the thresher, he started in on me and I answered back.

"Get down off that bundle wagon and I'll teach you not to answer me back," he shouted.

I jumped down with fire in my eye and my pitch fork aimed square at his belly. I told him to leave me alone or I'd run it through him. In my then state of mind I guess I really meant it, but at any rate *he* thought so, for he ran with me in hot pursuit with my pitch fork only inches from his buttocks. I was fleet of foot and I suppose we ran half a mile. The whole gang yelled their heads off for they all sided with me. When I gave up the chase and returned to my bundle wagon I was treated thereafter with more respect than ever before, and the bully gave me wide berth.

Later events proved it wasn't a smart thing to do. When harvesting was stopped by a week of rain, the crew took to heavy drinking and crap shooting in the barn. It was the first of September and I concluded I had had enough and went to Crook H---- for my pay. I learned from his wife he was in town. He owed me some \$50. I didn't find him and never collected.

The lad from the University of Minnesota left with me, but we kept in touch by letter exchanges. He wrote me that the very next day after we left a fight had taken place in the barn, reported by local newspapers. It seems that there had been this fight between the bully and a member of the crew they called Whitey. The bully had knocked Whitey down and mauled him with his hobnailed boots, ending by gouging out his eyes, and then escaped arrest by fleeing across the border into Canada.

When we got to Minneapolis my buddy asked me: "How would you like to sleep with the greatest cow on earth?" He was in charge of such a prize cow at the Minneapolis State Fair and we bedded down for the night in her stall. The next day I offered to milk her for the experience, but was refused.

"Every ounce of milk she gives is weighed and registered and I won't take a chance on an amateur milking my cow, for I want first prize."

Those two months in the harvest fields weren't all blood, sweat and tears. There were some vivid memories. How one eats when he works 16 hours a day,

7 days a week, for several months! Women drove chuck wagons out to the thresher which was often miles away from the house, to save work time, and we had a half hour to gorge ourselves. I lost ten pounds but returned hard as nails. It was a fine experience for an embryo lawyer to spend a summer, but not to get a stake for next winter's expenses. Travelling back and forth used up all I had earned, since I had lost \$50 of hard earned pay. Nor did I come back looking like an Ed Burgess, who had also spent the summer out in Washington helping with the family grain harvest.

The most vivid memory that I treasure were the straw fires. The threshers had left straw piles higher than houses, scattered across the flat countryside. As a sort of celebration it seems the neighbor farmers had agreed to set a match to them on the same night and hundreds of them lighted up the sky bright as day. The next morning nothing was left but blackened earth and one could walk over them with bare feet.

Forty years later, with my wife I paid a nostalgic visit to Grandin. It seemed to have just stood still. But the type of harvesting as I had known it was a thing of the past.

## Letters

*(Continued from page 16)*

ation of the competitive spirit of litigation. Advising a client means taking account of the numerous possibilities and steering away from the rocks and whirlpools of potential litigation.

I find that the strongest argument on behalf of the SAC proposal is the existence of a policy which permits a student to choose not to receive his grades and to refuse to have his grades released to prospective employers. The SAC proposal is correct when it states that an employer who receives the message that a prospective employee does not want his grades released will immediately wonder what the student has to hide. A pass-fail grading system would be different because a prospective employer would be able to see that an applicant had not flunked over half his courses. The SAC proposal is willing to concede that the student who opts for pass-fail grading will have trouble obtaining employment but it argues that this is a factor to be considered by a student in making a mature judgment how he wishes to be graded. The same argument applies to the present withholding system. Since this is the only one of the evils which is cured by the proposed system, I am not at all convinced that it is sufficient to justify a change, especially since the choice presently open to the student is not really unfair and it can be made with knowledge of all relevant factors.

Very truly yours,  
Michael L. Levy, '69

## Columbia Revisited

# Lions Top U.S.C., Soph Prexy Firm

By J. F. Heinz, '50

A strange quiet shrouds Morningside Heights this bleak morning of January 7, 1976. The uneasy calm masks widespread apprehension that a fresh outburst of violence will rock the campus of Columbia University, the scene only a few days ago of gala celebrations triggered by the Lions' smashing Rose Bowl victory over the game but outmanned Trojans of the University of Southern California.

Yesterday, in one of the best-concealed maneuvers since Raquel Welch played the title role in "Twiggy!", the Columbia faculty stormed Jerry Rubin Student Center en masse, took undisputed possession of the premises, and threw seven marihuana vending machines out the window. Although the extent of their depredations cannot yet be ascertained, student onlookers alleged tearfully that the rampaging pedagogs had burned the Center's priceless collection of Playboy magazines and had hanged Hugh Hefner in effigy.

The cause of the uprising is believed to be "academic freedom." It is well known that certain faculty radicals have long yearned for the right to grade students' examination papers, and have secretly deployed lecture hall love-ins. Both activities, administration spokesmen are quick to point out, are specifically granted to students under the articles of reincorporation enacted in 1969.

Response by the university administration was prompt and decisive after the initial shock. Ashen-faced but dignified at a hastily called press conference, University President John Carson Halliburton II, a sophomore majoring in medieval profanity, quietly assured the press that steps were being taken to bring the situation under full control.

Asked what he did upon learning of the insurrection, the full-mustachioed educator said, "First, I called the police and demanded that law and order be restored forthwith. Then I called my mommy."

Despite a barrage of questions, President Halliburton refused to divulge the full list of "demands" rumored to have been delivered to him by the faculty dissidents. He did hint, however, that there is some substance to talk of the test-grading issue when he responded to an inquiry from the Associated Press with a querulous, "Dammit! There's no compromising with these kinds of persons. First you let them grade the tests and next thing you know, they'll want to *prepare* them!"

As the embattled president met in a closed-door session with members of the Student Board of Trustees—some of whom had to be summoned by special messenger from an inter-class snowball fight in Central Park—a huge crowd of spectators gathered around the Student Center, an impressive structure completed

less than a year ago and named, ironically, in honor of the prominent Federal jurist who was only two weeks ago nominated to succeed ailing Muhammad Ali as Attorney General of the United States.

With all doors and lower-level windows solidly barricaded, a motley assortment of professors and pedagogical lesser-lights thronged the upper-story windows and balconies, displaying crudely lettered posters emblazoned with such provocative slogans as "Honesty is the best policy," "A penny saved is a penny earned," and "A diller, a dollar, a ten o'clock scholar." Some of the more militant rebels defiantly shaved in full view of the horrified and outraged onlookers, while others chorused, "nyah, nyah, you can't catch me" at the policewomen massed below.

Late in that day of agony for one of America's great educational institutions, hopes were raised by as-yet unconfirmed rumors that the administration would be willing to negotiate terms of settlement on condition that the faculty vacate the center in time for the junior class bowling tournament scheduled for this evening. One highly impeachable source reported that the authorities might permit faculty members to entertain their wives and families in their rooms until 10 p.m. nightly and midnight on weekends and holidays, would consider suspending, rather than firing, faculty members who appear in public clean-shaven, and would add a "token" Anglo-Saxon to the University's Admissions Committee.

The nation's press, with rare exceptions, has declared itself to be in full support of the university administration. The tone of this morning's editorials ranged from the *Times'* mild rebuke ("Regrettably, the incident must serve to deepen our doubts that persons of the notoriously unstable over-thirty age group can safely be entrusted with the education of youth.") to harsh criticism ("This is not lawful dissent; this is anarchy!") from the arch-conservative *Village Voice*.

As of this writing there is no word from Gracie Mansion, where the mayor is attempting to mediate the infamous bagel-bakers' walkout, now in its 214th day. Generally conceded to be the most costly of the 738 labor-management confrontations plaguing the city, this work stoppage has already resulted in an estimated 34-pound average weight loss for two-thirds of the city's 17 million inhabitants.

White House correspondents have been unable to coax any comments whatsoever from the chief executive. At his weekly news conference last evening, President Gregory parried questions with his characteristic ploy of tossing off a rapid succession of one-liners while cake-walking offstage as the Marine Band played "Sweet Georgia Brown." What does the future hold for Columbia University? Only time will tell.

Remember  
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