The Cover

Hsieh-Chai, the mythical Chinese animal whose bronze sculpture graces our main lobby and who has become a University of Pennsylvania Law School symbol and institution, was executed by famed sculptor Henry Mitchell in 1962.

The Law Alumni Journal's tribute to the venerable "goat" and to the arrival of Spring 1979, was executed with artistic license by Donna E. Nelson, a Class of 1980 J.D./M.B.A. candidate.
Contents

Symposium 3

Featured Event 6

Something to Say... a personal view 7
A Message from Law Alumni Society President
David H. Marion, '63

The Challenge of Administrative Legitimacy 9
by Dean James O. Freedman

Conversation with... Assistant Professors 15
Regina Austin, '73 and Alan T. Cathcart, '74

Penology in America: A Theological Perspective 19
by Gerald Austin McHugh, Jr., '79

The Faculty 24

Alumni Briefs 26

End Notes 30
Dean James O. Freedman brings with him to the deanship an outstanding record of scholarly achievement, a wide experience of administration, and deep concern for the University and the Law School. His attachment to intellectual values is matched by his sensitivity to the needs of those around him; he is a man of vision and of prudence. With his personal and intellectual qualities, I believe that Jim Freedman will be a great dean of our Law School and, indeed, in the history of Law deans everywhere.

—Martin Meyerson, President
The University of Pennsylvania
Law Alumni Day
Will Be Held On
April 24, 1979
Guest Speaker:
Joseph R. Biden, Jr.
U.S. Senator From
Delaware

Supreme Court Clerkships

Two members of the Class of 1978 have been selected as Supreme Court law clerks for the 1979 Term of Court: Richard A. Friedman is clerk to Chief Justice Burger and William J. Murphy to Mr. Justice Blackmun.

Alumni Reception to be Held at Annual ABA Meeting

A cocktail reception for University of Pennsylvania Law Alumni will be held on Monday, August 13, 1979 at the annual meeting of the American Bar Association in Dallas, Texas. Watch your mail for news of the event.

Moot Court Finalists From Penn

Gregory Berry and Dalton Phillips, both members of the Law School Class of 1980, have reached the finals of the Frederick Douglass Moot Court Competition. The contenders will be competing at the end of March in San Francisco, California.

Our Newest Faculty

Professor Alan Watson of the University of Edinburgh has accepted the invitation of the School to become Professor of Law, effective July 1, 1979.

Race and Law: Black Reparations and the Idea of Compensatory Justice

A symposium, funded by the Public Committee for the Humanities in Pennsylvania and conducted under the auspices of The Law School, the Black Faculty and Administrators of the University of Pennsylvania, and the Black Law Student’s Union of the University’s Law School, was held for two days in February.

The program discussed the concept of reparations as a means to remedy the injury many Black Americans suffered as a result of both a heritage of slavery and the continuing effects of racial discrimination and prejudice which remain today. Present at the Symposium were teaching humanists, legal scholars, community leaders and a broad spectrum of persons from the Philadelphia area who explored the moral, ethical and public policy implications of the idea of Black reparations. Participants included Arnold Schuchter, an Administrative Assistant to United States Congressman John Conyers; Derrick Bell, Professor of Law at Harvard Law School; James Nickel, Professor of Philosophy at Wichita State University; Reverend Muhammed Kenyatta of the Black Theology Project at Haverford College; Arthur Kinoy, Professor of Law at Rutgers University and the New York Center for Constitutional Rights; and Ewart Guinier, Professor of Afro-American Studies at Harvard University.

On Exhibit

A remarkable exhibit is now on view in the main rotunda of the Law School. The display, entitled “Women and Equal Rights” and organized by Nancy Arnold of the Bible Law Library, presents a history of equal rights from Hammurabi to the present day. If one has the opportunity to visit the School, either for Law Alumni Day or otherwise, a concerted effort should be made to see this extraordinary show.
In Celebration of The New Regime

A ceremony and reception marking the change in command from former Dean Judge Louis H. Pollak to Dean James O. Freedman was held on February 12 in Room 100 of the Law School.

The stalwarts who either remained at the School or braved the heavy snowfall forcing the University's closing, witnessed Dean Freedman's formal acceptance of the duties of his new office. Presiding was University of Pennsylvania President Martin Meyerson, who introduced the new Dean and guest speakers Judges A. Leon Higginbotham and Louis H. Pollack to those assembled, which included U.S. District Court Judge Norma L. Shapiro, and members of the Law School Faculty, Administration and student body.
The Board of Managers of the Law Alumni Society is mindful of its responsibility to assist students in making the change from law student to active practitioner.

Each year, Philadelphia Common Pleas Judge Doris May Harris, in concert with the Board of Managers of the Society, graciously sponsors the Judges' Reception at City Hall. This past fall, a sizeable number of students were afforded the opportunity to informally meet with many Municipal and Common Pleas judges and, in addition, tour some of the City Hall Court facilities at the reception’s close.

Two second year students, Vivian Payne and Gail Wilson, converse with Common Pleas Judges, Curtis Carson, Jr., and Doris May Harris, at Law Alumni Society’s Annual Judges’ Reception.
The Keedy Cup Competition for 1978

Justice John Paul Stevens, United States Supreme Court; Judge Louis H. Pollak, United States District Court for the Eastern District of Pennsylvania; and Justice Samuel J. Silverman, New York Supreme Court, Appellate Division, First Department, comprised the illustrious Bench which listened to the 1978 Edwin R. Keedy Cup final argument. Petitioners Thomas F. Connell, '79, and Margaret A. Seltzer, '79, argued against the winning respondents, Garrard R. Beeney, '79 and Kenneth J. Warren, '79.

The case upon which this year's competition was based was Gannett Co., Inc. v. De Pasquale, which addresses the issue of whether a trial judge may bar the press and public from a pre-trial suppression hearing in a widely publicized murder case.

The Judges praised highly the extraordinary arguments presented by both petitioners and respondents. Special commendation goes as well to Professor Ralph S. Sprizer, Faculty advisor to the Moot Court Board.
At the last meeting of the Board of Managers of your Law Alumni Society, the agenda included for discussion the question of the relationship, if any, which should exist between the Society and the Law Alumni Annual Giving campaign.

It was noted that, by a curious process of historical development, the Managers of the Alumni Society—presumably a leadership group of individuals particularly interested in and dedicated to the well-being of the Law School—were totally divorced from the perennial activity by which the Alumni impact most significantly upon that well-being, the annual raising of funds for the Law School’s support.

I suppose it was inevitable in a group of lawyers that one of our number should inquire whether proposals under discussion for involvement of the Managers in the Giving campaign were consistent with the purposes and objectives of the Law Alumni Society as set forth in the By-Laws of that organization.

Chris Mooney, our Assistant Dean for Alumni Affairs, who maintains himself in a constant state of readiness for such difficult questions, immediately produced a copy of the By-Laws and confronted us with an even greater anomaly: nowhere in the By-Laws is there any statement of purpose or objectives to justify this organization’s continued existence!

Thus was the Board of Managers confronted with a challenge from which, I am proud to report, your Board did not shrink. Prompt and forthright action was called for and taken: the President was unanimously directed to appoint a Special Committee to explore in-depth the purposes and rationale for the Law Alumni Society.

The Special Committee was duly appointed and convened and, after almost ten minutes of deep exploration, the following proposed “purpose clause” was drafted:
Purpose

The general purposes of the Law Alumni Society of the University of Pennsylvania are the advancement of the interests of the Law School, the Society and its members, and the promotion and perpetuation of the spirit of good feeling and commonality of interests among graduates of the Law School. It seeks to accomplish these objectives by various means, including the planning of meetings, social events and other opportunities for interchange and communication among Alumni, and between Alumni and the Faculty and Administration of the School, informing Alumni about their School through appropriate publications, encouraging Alumni support through Annual Giving, aiding students to find placement after graduation, and sponsoring lectures and panel discussions on matters of current legal interest.

Hopefully this clause will be adopted as a By-Law amendment at the forthcoming Annual Meeting, along with a proposal to include the Chairman of the Annual Giving campaign as an ex-officio member of the Board. In such event, when I conclude my tenure as President, my successor will have not only a new and enthusiastic Dean to work with, but also a spanking new purpose clause to guide him.

Whether Law Alumni Days past were legitimate or ultra vires activities, such a reunion certainly fits within our new purpose clause, and I trust all of you will now feel more comfortable in attending. Although the Annual Giving campaign is now formally to be linked to the Society, as in the past there will be no deliberate, willful or overt solicitation of funds on Law Alumni Day.

I look forward to seeing you on April 24.
The Challenge of Administrative Legitimacy
By James O. Freedman

The mere existence of a real and substantial doubt as to the legitimacy of a government must surely enfeeble it and strip it of moral force, even while the lack of anything better keeps it going a while longer.

Charles L. Black, Jr., The People and the Court (1960)

Although the roots of the American administrative process reach back to the First Congress of the United States, recognition of the profound implications that the growth of the administrative process has had for the nation’s legal and political institutions came remarkably late. The significance of administrative law in the United States emerged clearly only when three remarkable scholars—Frank Goodnow at Columbia, Ernst Freund at Chicago, and Felix Frankfurter at Harvard—began to publish their pioneering work in the early decades of the twentieth century. That work laid the foundation for a systematic exploration of the administrative process as a distinctive development in American law.

Perhaps the nineteenth century’s delay in recognizing the implications of administrative law reflected a reluctance to acknowledge the apparently anomalous fact that the administrative process had become so important in a nation whose Constitution made no reference to it. But the American reluctance to acknowledge the emerging significance of administrative law must have reflected other factors as well because it ran parallel historically to the experience in Great Britain, a nation without a written constitution. There, Dicey denied as late as 1915 that a system of administrative law existed in either England or the United States, even though Maitland, lecturing in 1887–88, had reported that half the cases decided by the Queen’s Bench Division involved the rules of administrative law.

Such denials became increasingly untenable in the years immediately after Dicey wrote, particu-
larly during the administration of Franklin D. Roosevelt, when reliance upon the administrative process as a principal instrumentality for the achievement of national policies increased extensively. In the decades since the New Deal, what Professor Frankfurter described in 1932 as "a vast congeries of agencies" has grown apace with the enlarged responsibilities of modern government. In virtually every relevant respect, the administrative has become a fourth branch of government, comparable in the scope of its authority and the impact of its decision making to the three more familiar constitutional branches.

The growth of the administrative process has raised troubling questions concerning its implications for the character of American democracy, the nature of American justice, and the quality of American life. These questions have almost always been based upon the premise that there is a crisis in the administrative process. That successive generations of lawyers, judges, political scientists, and citizens have failed to still the recurrent sense of crisis attending the federal administrative process, even though each has made important efforts to do so, suggests that the sources of the sense of crisis are more fundamental than the dominant concerns of any particular historical moment would indicate.

The sense of crisis attending the administrative process has, by its persistence, impaired the legitimacy of the federal administrative agencies. Because institutional legitimacy is an essential condition for institutional effectiveness, the sources of the recurrent sense of crisis must be understood if the administrative process is to fulfill the promise that has animated the nation's repeated decisions to rely upon it for the achievement of public purposes.

The recurrent sense of crisis attending the federal administrative process derives from many factors. Perhaps the most prominent is the fact that administrative agencies do not conform to three of the most powerful conceptions of the American imagination: the inviolability of the constitutional prescription of a separation of governmental powers, the importance of the judicial norm of trial-type hearings for the fair determination of disputed questions, and the insistence that policy-making officials of government be directly accountable to the people through political and electoral processes. In each of these respects, the legitimacy of the administrative process has been called into question unfairly.

The belief that the administrative agencies of the federal government are not entirely legitimate because they do not conform to the constitutional requirement of the separation of powers is misguided. The Constitution requires that the legislative, executive, and judicial powers be separated to the extent necessary to prevent the emergence of tyranny from the concentration of too much power in a single person or institution. But the lines that the Framers drew between the exercise of the respective powers are not rigid ones, and in a number of notable instances the Constitution permits one branch of government to participate in functions assigned primarily to another branch. The conventional understanding of the separation of powers that informs the American imaginations is simplistic by comparison to the flexible and pragmatic vision that Madison and his contemporaries expressed in the Constitution itself.

The procedural departures that the administrative process makes from judicial norms have also impaired the legitimacy of administrative regulation, primarily because of the uncritical faith that Americans have traditionally placed in trial-type proceedings of the kind employed by the courts. Yet those departures have resulted in a system of fact finding and decision making that, for many substantive issues, is better suited to the attainment of justice than trial-type proceedings would be. In a period when the efficacy of adversary hearings is being widely questioned, increasing adoption of the less formal methods that characterize the administrative process seems likely. Perhaps that development will finally persuade Americans of what Europeans learned long ago, that the fair and expeditious resolution of disputed questions can...
sometimes be achieved better by procedural methods that depart from judicial norms.

The claim that administrative agencies lack a democratic legitimacy because they are not di-
rectly accountable to the people through the political process is similarly dubious. Although many administrative agencies are independent of the political branches in theory, they are subject in fact to a considerable measure of control and influence by the President and the Congress. Moreover, the circumstance that administrative agencies are not majoritarian in character does not distinguish them from some of the most significant and necessary institutions in our governmental system, institutions whose legitimacy is seldom questioned on that account. Indeed, a considerable part of the genius of American government lies in the fact that public policy has always been formed by a complicated, Madisonian interplay between institutions of a majoritarian character and those of a nonmajoritarian character.

The legitimacy of the administrative process cannot turn, then, upon its nonconformity to a simplistic version of the separation of powers, the departures it makes from judicial norms, or the formal independence of many agencies from direct political accountability. Rather, it must be tested pragmatically, by the responsiveness of administrative institutions to the most fundamental principles of a democratic society and by the degree to which administrative institutions meet the nation's highest aspirations for justice and effective government.

Beyond the three factors just discussed, the recurrent sense of crisis attending the administrative process derives from two related public attitudes: skepticism of administrative expertise and concern with bureaucratization. There is an undoubted element of validity in both attitudes. Administrative expertise, burdened with unrealistic expectations, has not been translated into sound public policy as frequently as the New Deal's idealized conception of its role anticipated. And administrative bureaucracy, as Weber foresaw and feared, has often been impersonal, coercive, and dehumanizing in its manner of dealing with the lives and fortunes of those it was created to serve. These public attitudes toward expertise and bureaucratization have been important factors in impairing the legitimacy of the administrative process.

Yet the concerns that these attitudes express are hardly limited in their application to the federal administrative process. Public skepticism of administrative expertise is part of a larger loss of faith in many traditional sources of public and social authority. And public concern with bureaucratization is part of a larger pattern of social uneasiness over the impact upon American life of large organizations, within both the public and private sectors. The administrative agencies of the federal government, in short, are not the exclusive focus of these concerns; they are merely prominent examples of wider social trends that Americans understandably find disturbing.

Reliance upon administrative expertise and administrative bureaucracy is likely to remain essential to the difficult and imperfect enterprise of governing a continental nation of two hundred million people. The important task facing those concerned with this prospect is to devise means of subjecting administrative expertise to democratic and generalist control and of limiting the undesirable influences of bureaucracy upon the quality of American life.

Finally, the recurrent sense of crisis attending the federal administrative process reflects our society's basic ambivalence toward the idea of economic regulation. During the years when the New Deal was enlarging the role of administrative agencies as instrumentalitys of modern government, the people of the United States shared a common commitment to the need for national recovery and economic growth. The social consensus that supported that commitment was sufficiently pervasive that philosophical differences over governmental intervention in the economy were, for the moment, put to the side.
But the reality of those differences as matters of public policy and democratic strategy inevitably became more pronounced as society’s shared objectives of national recovery and economic growth were achieved. It now seems clear that the New Deal’s apparent success in achieving economic recovery by placing extensive reliance upon the administrative process merely served temporarily to obscure the fact that Americans have not developed a coherent ideology of when, and to what extent, governmental intervention in the economy is appropriate. To this day the United States has failed to resolve its basic ambivalence toward the concept of governmental regulation of economic activity.

The persistence of that ambivalence has had adverse consequences for the legitimacy of the administrative process. When the propriety of economic regulation is subject to philosophical as well as pragmatic question, the legitimacy of the administrative institutions created by Congress to perform specific regulatory responsibilities will also be open to challenges of the same fundamental kind.

The ambivalence that has frustrated society’s attempts to formulate a coherent ideology of governmental intervention in the economy has also caused Congress to legislate economic regulation in evasive generalities, delegating to the respective administrative agencies the essential task of resolving the fundamental political and social questions that it has not been able to resolve itself. The freedom of Congress to delegate legislative power without instructive standards has been nurtured by the Supreme Court’s permissive interpretation of the doctrine of the delegation of legislative power.

That most administrative agencies have finally been unable to resolve satisfactorily questions that Congress itself could not resolve is hardly surprising. Nevertheless, the failures of the administrative agencies to develop coherent policies in the course of their regulatory activities has been a continuing source of criticism. That criticism has had distressing implications for the legitimacy and effectiveness of the administrative process. It is important to recognize that these implications are a result of society’s ambivalence toward economic regulation and of the delegation doctrine that permits Congress to make the administrative process the focus of that ambivalence; they are not the result of any inherent qualities of the administrative process itself.

The sources of the recurrent sense of crisis attending the federal administrative process thus prove, upon analysis, to be less forceful than at first they seem. Many are based upon perceptions that are misconceived as conclusions of historical fact or misinformed as judgments of administrative practice. Although there is a measure of validity in some of these perceptions, the cumulative effect is far from sufficient to support an indictment of the legitimacy of the administrative process.

Still a further difficulty with the assertion that there is a crisis in the administrative process arises from the fact that it is usually phrased in indiscriminately general terms. The performance of the federal administrative agencies varies so widely that generalizations of that kind are quite impossible. Some agencies are highly respected for their standard of performance; others are generally regarded as chronic failures.

These differences in the quality of agency performance are attributable to many factors, of which perhaps the most decisive is the strength of the public’s support for an agency’s substantive responsibilities. When public support for an agency’s statutory mandate is strong, the agency is likely to perform effectively, as the history of the Securities and Exchange Commission indicates. But when public support for an agency’s substantive mission is ambivalent, the agency is likely to perform much less effectively, as the experience of the Equal Employment Opportunity Commission suggests. In short, there are limits to the effective uses of the administrative process, and these limits tend to coincide with the bounds of the social consensus on an agency’s statutory responsibilities. When society does not respect these limits—when it requires ad-
ministrative agencies to achieve more than public opinion is ready to support unambivalently—it condemns agencies to undertake tasks beyond their institutional capacity to perform effectively.

Indiscriminately general assertions that there is a crisis in the administrative process obscure the facts that variations in agency performance do exist and that there are limits to the effective uses of the administrative process. It would be more accurate, and less destructive of the legitimacy of administrative agencies to speak of failures in the performance of particular agencies. And it would be more useful, in inquiring into the factors that account for these failures, to consider the possibility that, here as elsewhere, the fault may lie not in the stars but in ourselves.

But however much reformers deride the administrative process for its failures of effectiveness, political accountability, and fairness, they seem invariably to fall back upon administrative regulation as the institutional method for implementing their own programs of reform. The nation's repeated reliance upon administrative agencies to meet the emerging problems of successive generations provides a historical basis for believing that the United States is likely to have more, rather than less, administrative regulation in the future. This likelihood heightens the importance of understanding the fundamental sources of the recurrent sense of crisis attending the federal administrative process. It also lends urgency to the related task of constructing a theory of legitimacy for the role of the administrative process in modern government.

It was Weber who described most powerfully the impulse that motivates ordinary citizens to seek a measure of legitimacy in the state's power to coerce them. He regarded that impulse as a universal human characteristic: the need to find meaning and justification in the social and political arrangements by which daily life is authoritatively bound. The quest for understanding the implications of the American administrative process is finally a search for the sources and definition of its legitimacy.

The search is more than conventionally difficult because administrative agencies can point to neither of the two principal methods by which governmental power is typically legitimated in a democracy, either creation by the Constitution or exercise by officials directly accountable to the people through the political process. Yet neither method is invariably exclusive, and efforts to legitimate the exercise of administrative power properly have stressed other factors as well, including the need for new institutional forms of authority and decision making to complement the legislature and the courts, the responsiveness of the administrative process to democratic constraints, the opportunities that administrative agencies permit for effective public participation, and the availability of judicial review.

The relationship of procedural fairness to the integrity of governmental institutions has, of course, long been recognized. But too little attention has been given to the ways in which the quality of administrative justice supplies an important source of administrative legitimacy. The procedural rules by which a government agency reaches substantive decisions are significant evidences of the nature of its commitment to protecting individual rights and attaining just results. For these reasons, the desire and capacity of government to devise fair administrative procedures for the discharge of its decision-making responsibilities is the essence of democratic practice.

Fair administrative procedure most often results when Congress and the administrative agencies share with the courts the responsibility for creating it. The Administrative Procedure Act has been successful in achieving greater fairness in the formal processes of adjudication and rule making because Congress, in drafting its central provisions, struck a workable balance between prescribing fundamental principles of fair procedure and permitting administrative agencies the freedom to adapt these principles to the disparate patterns of their regulatory responsibilities.
An opportunity of the character that the draftsmen of the Administrative Procedure Act grasped in 1946 now confronts those concerned with the fairness of the informal, discretionary processes of administrative agencies. Although the importance of informal agency action has been recognized for a generation, only recently have students of the administrative process begun to suggest systematic approaches to understanding its nature. The procedures by which a large number of administrative agencies and the courts have sought to govern the exercise of informal authority suggests that society can limit the risks of unfairness associated with discretionary administrative action without sacrificing the special competence to act effectively that informal procedures typically permit.

The task of devising an effective theory of the legitimacy of the administrative process is one of the most important challenges facing those concerned with American administrative law and institutions. That challenge requires that the recurrent sense of crisis attending the federal administrative process be examined candidly, and that effective administrative procedures be devised, for formal and informal proceedings, that give promise of being fair, efficient, and responsive to democratic values and constitutional restraints.

As the role of the administrative process in American government grows in scope and authority, systematic reconsideration of administrative procedure becomes a philosophic and practical necessity. One can hope, as Professor Frankfurter wrote of his generation’s quest to understand the administrative process, that “efforts at systematization may themselves be creative forces.”
Assistant Professors
Regina Austin, '73 and
Alan T. Cathcart, '74

Editor's Note: Both Regina Austin and Alan Cathcart are Alumni of Penn Law School who chose, at this juncture in their careers, to return to the School as professors.

Ms. Austin, a native of Washington, D.C., received a B.A. from the University of Rochester and was graduated, cum laude, from the Law School in 1973, where she was elected to the Order of the Coif. After a year as law clerk to Judge Edmund B. Spaeth, Jr. of the Pennsylvania Superior Court, she worked as an associate at the Philadelphia firm of Schnader, Harrison, Segal & Lewis. Professor Austin joined the Faculty in 1977 and teaches Torts and Insurance.

Professor Cathcart was born in Glendale, California and lived most of his life in the western part of the United States. He was graduated from Stanford University in 1969 with a B.S. degree in Mathematics and, for one year, was a volunteer teacher with the Peace Corps in Yonibana, Sierra Leone, West Africa. Cathcart was a magna cum laude graduate of the Law School in 1974 and, as a student, was Executive Editor of the Law Review. He served as law clerk to Judge Theodore Tannenwald, Jr. of the United States Tax Court in Washington, D.C. and then became associated with Lee, Toomey & Kent, a Washington firm specializing primarily in tax work. Mr. Cathcart is one of the Law School's newest Faculty members, having arrived in September, 1978. He teaches Tax.

Journal: As fairly recent Alumni of this Law School, are you realizing a fantasy by occupying the opposite side of the podium?

Austin: I can't say that I ever contemplated returning here as a law professor since, as a student, I viewed my professors as being somewhere up there and to the right. I enjoyed law school; I like to study. I gave little thought to preparing myself for the classroom. In fact, I was about to become a junior high school teacher when I came to my senses and decided to enter law school.

Cathcart: My experiences were different. I knew, before having left the Law School that I wanted to teach someday, and returning to the place that I was most familiar with seemed very appealing.

Journal: Has this teaching experience been all that you had anticipated?

Cathcart: Well, as a former secondary school teacher, I had already learned that teaching is not as easy as it looks. Yet, one thinks of teaching—especially on the graduate level—as a contemplative life with acres of uncommitted time...

Austin: And no deadlines! No time sheets!! When I decided to become a law professor, it did not occur to me that I would be standing in front of a class of 100 students four times a week. I thought that teaching would provide the one opportunity I longed for—to be able to live in the library without being teased.

Journal: And not only has that proven to be the impossible dream but, in addition to classroom responsibilities, part of a Faculty member's duties is committee work—a variation of the extra-curricular activity. Do you find these "activities" intrusive?

Austin: For an untenured Faculty member, committee work can consume valuable segments of time that might otherwise be devoted to scholarly pursuits. Don't get the wrong idea, though. I am a member of the Law School's Admissions Committee and serve as chairman of the sub-committee on Special Admissions. I also serve on two University-wide committees. Needless to say, I consider these important, worthwhile activities. Committee work is an obligation of the posi-
tion, and each member of the Faculty must share part of the load.

Cathcart: I am not a really great committee person.

Journal: Has the practical experience that you acquired during the interim between graduation and your return to the Law School as professors proven a valuable tool to your teaching?

Austin: I worked at Schnader, Harrison, Segal & Lewis in Philadelphia for 3 years, as an office litigator. I like to write. I was in practice long enough to know the limitations of the theories I talk about, but I do not impart "wisdom" based on my experiences.

Cathcart: After a 2 year clerkship at the United States Tax Court, I practiced in Washington with Lee, Toomey & Kent specializing, of course, in tax. I am presently teaching Tax II which deals largely with corporate problems, and my practical exposure to them has been invaluable. On the other hand, while in practice I continued to take an academic interest in the problems with which I was working. It is always important to combine these two elements. I taught the basic tax course during my first semester here and was able to bring to bear the experiences I had acquired while clerking on the Tax Court. It has proven quite effective to be able to illustrate from personal experience what abstract theories mean in application.

Journal: Tax is an exacting, complicated area of the law which, if not presented with creativity, could possibly become tedious and difficult to teach and to absorb. How do you engender excitement for your subject?

Cathcart: I can give you no assurance that I have risen above tedium but do try by deemphasizing detail. The book I used when teaching Tax I was very rich in detail. By treating examples as illustrations, not as rules to be memorized, the number of concepts that people have to think about is reduced.

Journal: For those who contemplate teaching in the future, what were the events which led to your return to academia?

Cathcart: As I mentioned, I always wanted to teach. My understanding was that a clerkship was one of the steps that prospective teachers took, so my 2 year stint with the Tax Court was an asset. After the clerkship, I looked around at some schools but decided that, prior to teaching, I should have some practical experience. After a couple of years in practice I felt myself becoming almost too comfortable and happy with firm work, so much so that it seemed unlikely I would ever want to leave. At the right psychological moment, however, Noyes Leech called to ask if I was interested in being considered for a teaching position. I decided, at that point, that if I was going to teach, it should be now or never. So here I am—giving it a try.

Austin: After I indicated to a few of my professors that I was interested in teaching, I was contacted by several schools. I received an offer from Penn fairly early in the process, but delayed my arrival for a year-and-a-half. This is a good environment and I like to teach. The large classes that intimidated me at the outset no longer do so; in fact, I am a bit of a ham. Those graduates interested in teaching should contact Professor Curtis Reitz.

Cathcart: Yes, he perpetually maintains a list of graduates interested in teaching. I was on that list for quite a while and received letters regularly from Penn and from other schools as well—all relaying opportunities for teaching.

Journal: Are tax specialists in demand in the teaching profession?

Cathcart: Tax teachers are most desirable creatures—the field is great for those interested.

Journal: Do you often wonder how effectively you are reaching your students? What feedback have you received?

Cathcart: I don't hear much but have been pleasantly surprised at some of the give-and-take that has been developing between my students and me. I was surprised to discover how extensively one must be prepared when coming to class everyday. The level of preparation is tremendously demanding.

Journal: In addition to the pressures of remaining abreast of and, in fact, beyond the classroom situation, isn't it also the teacher's responsibility to interpret one's subject and make it his or her own?
Austin: Yes. There is a gigantic difference between learning material in order to take an examination and making it your own intellectual tool. In preparing for my first year torts course, I had to read nearly 75 years worth of scholarly literature in order to understand negligence and the concept of "fault" (one of Professor Morris' favorite words). Torts has become, for me, an exciting subject that generates fascinating debates between various scholars who have their own competing approaches and theories.

Journal: And what your students want to know is the Austin approach and theory. This, one imagines, is where your creativity as scholar and teacher is truly challenged.

Austin: Yes. And one's teaching should be the foundation of one's writing. I would even go so far as to say that one cannot be a really good teacher unless he also writes. Good writing requires that a person bring his full critical faculties to bear on a subject and systematically, articulate his own perspective. Intellectual growth is tremendously important. It brings security to the classroom.

Journal: Although it has not been a long time since your graduation from Penn Law School, have you perceived any changes in student attitudes or the way in which the School is functioning?

Cathcart: I was a member of the Class of 1974. We were very iconoclastic, the presumption being that anyone in authority was wrong. Many saw that presumption borne out in their relations to the School and, to some extent, it may have been a self-fulfilling prophecy. People came expecting to be at odds with the administration and, in fact, there was friction.

Journal: Were these problems a carry-over of 1960's rebelliousness and dissatisfaction with authority?

Cathcart: A great many of us had been undergraduate students in the '60's and had gone through the college experience attendant to that time, which was one of discontent—largely with the War, but it spilled over to other areas as well. These influences made us a pretty cynical group. If my memories are more pleasant than others, it is probably because I generally belonged to that part of the student body the School was accused of favoring to the neglect of the majority.

Today I do not sense the restiveness among students that was present during my days here. Possibly economics has forced people to be more interested in going about the business of learning. Educational costs were scandalous when I was a law student and they are proving to be moreso today. I sense the feeling to be that if this enormous amount of money is being spent for a professional education, then one should (a) get as much of it as is possible and (b) get it over with as soon as possible.

Journal: Do you sense any idealism filtering through these attitudes? Is there any talk of "changing the world"?

Cathcart: I think that the most dramatic change a law student experiences over the 3 year period is in his or her expectations. Don't you agree, Regina, that there are many more prospective idealists in the entering classes than there are in the graduating classes?

Austin: Probably. The process does tend to produce conservative thinkers and practitioners, but it may be a mistake to conclude that this generation of students is not as public interest/change-the-world oriented as we were.

Cathcart: I disagree with those who say that we spend 3 years tailoring people for pin-striped suits and that the process is designed to take prospective idealists and turn them into corporate lawyers.

Journal: You both teach very practical courses so it may be difficult to emphasize "idealism."

Cathcart: In my own course, I have taught on a reasonably practical level and frequently put people into the position of a private lawyer advising a client. In tax law, that's about all one can do when hypothesizing about the application of existing law into fact.

Austin: I don't know how to teach torts without talking about policy and competing interests. From my perspective, every course can be a policy course, and that's what makes for a first-rate law professor and a first-rate law school. It's not enough simply to teach the rules. Rules change.

Cathcart: That's so right. And what we really should be trying to give
to our students is the notion of how and why the rules change, so that they can be in a position to understand developments as they come along and to predict what developments are likely to occur. These are very practical skills and 99% of our graduates will be putting their skills to practical use. Austin: I think the notion abounds that law school is about one thing and that practice is about another—that there is a conflict between the philosophy of legal teaching and the realities of practice. Cathcart: I think it is true that practice is about something in addition to what we do but I, personally, didn’t sense any lack of continuity as I moved from student to practicing attorney and now back to academia as a professor. There can always be a shift in emphasis, of course, depending upon the nature of one’s practice. In my practice, there was always a very theoretical approach to problems. 

Journal: As students here, who were your heroes—the Faculty members you most admired? Austin: Martha Field! I miss her. I have been teaching here for two years and she will have been gone for all but one semester. She was a fantastic teacher and just has a tremendous amount of guts. Cathcart: My classroom ideal was and is Marty Aronstein. He has my deepest admiration for the superb way he manages a classroom. If I had a teacher upon whom I would want to model myself, it would be Marty. Another is Leo Levin. Leo is one of the super tacticians of the classroom. 

Austin: Ah, yes! He is also one of the great all-time podium walkers. Journal: Speaking of that, how do you comport yourselves in the classroom? Are you active or do you sit? Cathcart: I find that I walk a lot. I don’t know if it is nervous energy. I do know that I can’t stand in one place and talk at people. I feel more conversational if I move around. Austin: I do not think about what I am doing. I sometimes find myself at one end of the podium with my case books and notes at the other end. Every once in awhile I catch myself and say, “What am I doing up here?” Journal (to Austin): You are unique on this Faculty—the only woman, and one of two Black professors, the other being Professor Ralph Smith. You appear to have adjusted satisfactorily to this singular position. Austin: Well I certainly would hope to have more company here soon—on both counts. As for myself, I have no problems with my colleagues or life here in general. I think it would be nice if the base were broadened, that’s all. Journal: You mentioned earlier, Professor Austin, that a good educator’s teaching should be “the foundation of [his/her] writing.” Are either of you presently engaged in scholarly work? Austin: As soon as my 5 day-a-week schedule ends, I am going to begin writing. Cathcart: I just filed an application for a summer fellowship to do work on a paper entitled “Property and Obligation in the Federal Income Tax.” I have just completed—with former Dean and now Professor Bernard Wolfman—the 1979 Supplement to his book on Federal Income Taxation and Business Enterprise. We have collaborated on two previous supplements since I have graduated. Journal: Hanging on your wall, Professor Cathcart—preserved for posterity—is the plaster cast impressions of two mini-hands, obviously not yours. Cathcart: They belong to my two daughters—ages 5 and 2.
Editor's Note: Gerald McHugh will receive his J.D. from the University of Pennsylvania Law School in May, 1979. This article, an adaptation from a report delivered to the Theology faculty of St. Joseph's College in Philadelphia where McHugh received his B.A. degree, is part of his larger work—a book, Christian Faith and Criminal Justice: Toward a Christian Response to Crime and Punishment. (Paulist Press, New York, 1978). Mr. McHugh has worked extensively within the prison system as counselor, trainer and operations director of the Thresholds Program, a project of the Philadelphia Prison System.

Penology in America: A Theological Perspective
by Gerald Austin McHugh, Jr., '79

The historical link between western penal customs and the Christian religion is frequently overlooked when the subject of penology arises today. Likewise, in modern theology, the cultural and ethical challenges presented by penology are seldom a focus for reflection. This situation is unfortunate because Christian theology and history provide many insights into both the evolution and the morality of contemporary penal practice.

To understand Christianity's historical influence on the evolution of penology and criminal law, it is best to begin by considering the practices which prevailed before Christianity came into existence. Prior to the time of Christ, the criminal law was essentially an objective code. By this I mean that if an individual had committed a certain crime, then he would have had to pay a set penalty for that crime. For instance, had I committed murder, I might have had to pay a penalty of so many cattle or horses, or a sum of money to the victim's survivors to avoid the possibility of a blood feud. Generally, however, no issue of moral guilt was raised because no concepts of personal responsibility or freedom of will were indigenous to most early cultures. Crime was simply one of the harsher realities in an already harsh life. Once crime occurred, the offender paid the penalty and life continued as usual. (The Jewish culture was, of
course, the notable exception to prevailing practice, and many Jewish conceptions of the nature and function of law and punishment were later adopted by the Christian religion.

As Christianity evolved, gradually "subjective" elements worked their way into the criminal law. Offenders were not simply forced by their communities to make payment for their offenses, but several inferences were made about them which, in turn, influenced the way in which western civilization came to treat criminals.

First, Christianity played a prominent role in introducing a moral dimension to the criminal law. Crime was no longer conceived solely as a physical act, something external. Rather, it came to be viewed as a symptom of the larger condition of humankind, namely sinfulness. Consequently, with the growth of Christianity’s influence in secular government, the ideas of crime and sin slowly began to merge. By the time of Constantine, they were no longer independent concepts. Many sins were written into the criminal codes and virtually all isolations of the criminal code were considered sins.

Second, the notion of personal responsibility began to develop as an idea, the belief that an individual should be held accountable for his/her actions. Closely allied with this concept were those of guilt and repentance which taught that since the individual person was the author—the source of his actions, he should be expected to feel remorse and to make amends.

The final element was free will, which maintained that the human person had the freedom of choice to good or to do evil. Crime then eventually came to be defined as a free, willful act committed by an individual with an intent to do evil. The concept of free will was a necessary, logical corollary to those of morality and responsibility, for only if individuals can choose not to commit crime is it reasonable to hold them accountable for their acts.

Without resorting to a detailed history of criminal law, it is clear that in large part our understanding of crime today is evolved from Christian moral theology. Under the common law, a crime basically consists of two components: one being the “actus reus,” the physical act entailed in a crime, the other being the “mens rea,” which, generally defined, refers to the offender’s mental state. Even if one commits a prohibited act, it is possible in certain narrowly defined circumstances to escape or diminish liability by showing a lack of “criminal intent” or “motive.” The concept of mens rea is derived from Canon Law. Church courts were just as interested in the moral development of offenders as they were in regulating their external actions. Offenses were sins and, in the traditional Church formulation, there can be no sin unless there is a willful intention to commit sin. Accordingly, Church courts were preoccupied with questions of culpability when judging offenses. Likewise, penalties imposed by Church courts were specifically tailored to the individual and his relative stage of moral development. This approach to crime generally was adopted wholesale by some early civil courts which were ill-equipped to employ the mens rea concept with the same precision.

One result of this interrelationship is that Christianity has given a great deal of force and legitimacy to the criminal law and the state as protectors of moral values. Until Constantine, Church courts usually handled ecclesiastical affairs, while Roman courts dealt with civil affairs. When Constantine embraced Christianity, he gave Church courts jurisdiction over a number of civil offenses. Likewise, he enacted many symbolic laws designed to force a link between the Christian Church and the Roman Empire.

Historically, the conversion of Constantine and the subsequent alliance of Church and state were significant. Christians were no longer the persecuted, the minority in a larger, hostile society. Nor could they remain a self-contained community waiting for the coming of the Kingdom of Heaven. They were forced to confront social and political situations because the state had draped itself in the mantle of the Church. Thus the Church could no longer automatically assume the role of advocate for the underdog. Christianity was no longer simply the religion which proclaimed freedom to prisoners—it was also the official creed of a state which held prisoners. The Christian ethic was
thereby invoked by what was still basically a ruthless, pagan government, a development which posed numerous challenges to the Church as it attempted to establish its identity and mission on earth. That the Church as a result sometimes failed to remain true to its promise became clear over time.

With the collapse of the Roman Empire, church-state distinctions were blurred even further. As English historian Richard Southern has suggested, “the Middle Ages may be defined as the period in western European history when the Church could reasonably claim to be the one true state, and when men . . . acted on the assumption that the Church had an overriding political authority.” Civil governments during the Middle Ages were often unstable or non-existent, and the Church was a natural institution to provide some semblance of social order and law enforcement. The Church represented not just the Kingdom of Heaven, but also the kingdoms on earth.

These historical developments in turn led to two critical problems in Christianity. The first, as mentioned before, was the tension between the Church’s role as defender of the oppressed and proclaimer of salvation to all people, its role being a socio-political institution concerned with maintaining order. The Church was to save sinners, but it was to restrain them as well. This dilemma was resolved for the most part by assuming that the restraint and punishment of offenders was in their own best interest or, as the proverb goes, “better to burn for a few minutes on earth than to burn forever in hell.” Punishment was defended on grounds of expiation and retribution. Thus, the punishment of criminals came to be viewed as God’s work, with the result that some of the remarkable conciliatory spirit characteristic of the early Church was lost.

A second problem was that the state was bestowed with much unquestioned moral authority and legitimacy as administrator of the law. With the decline of the Church as a political force throughout Europe, administration of the criminal law was largely assumed by the state, such that Church courts were no longer involved in criminal justice. The problem arose in that the action of the state was still viewed as reflecting the action of God. As law professor Nicholas Kittrie wrote: “This transfer of functions reflected little change in the public attitude that ‘do’s will’ was served by present and earthly punishment, a belief that provided both executioner and spectator with the feeling that they were participating in the ‘Lord’s work.’” Christian thought and culture focused more on the state’s potential for good, rather than the potential for misuse of power by the state to oppress its citizens. The political authority of the state came to be endowed with a kind of divine sanction. The Church’s prophetic role as a critic of the state suffered as a result; Christianity as a force for reform dwindled.

There was, however, a critical difference between Church and state goals in dealing with offenders. The Church in its worst moments may have condoned and even practiced brutal methods of “criminal justice,” but certainly in theory (however much our understanding of crime and justice has progressed since then) such practices were very much concerned with the “salvation” of the individual offender. With the development of the state as a separate entity from the Church, on the other hand, while punishment to a large extent remained cloaked in religious justification, there occurred a subtle but crucial change in its intent. Political authorities, as a rule, beyond paying lip-service to allegedly Christian ideals, were hardly concerned with individual salvation or the vindication of divine law on earth. They were concerned with maintenance of social order, the protection of their power within what was a hierarchical society, and the smooth functioning of the state. Throughout modern times, although the moral overtones and much of the religious symbolism of criminal “justice” have survived in various forms in American civil religion, the institutions of criminal justice have plainly functioned as secular entities designed to exercise social control, often at great individual expense. The popular cultural assumption which resulted from the overlap of church and state—that political institutions by nature function to serve the common good—survives to this day as a root cause of apathy about criminal justice reform.
Aside from historical inquiry aimed at understanding the origins of institutions, another area of theological interest is the ethical challenge raised by the tension between penal ideology and Christian belief. For close scrutiny which delves behind popular assumptions and "civil religion" indicates that Christian theology assumes an entirely different world-view and set of values than does penal ideology. To gain some appreciation for these challenges, one need only summarily consider two theories of punishment: retribution and deterrence.

Retribution has popularly been expressed as a form of legitimate vengeance for wrongs done—"an eye for an eye, a tooth for a tooth." If a criminal commits an offense, society punishes him in return so that he is given retribution for what he has done. The Old Testament passage which expresses the biblical lex talionis is frequently alluded to in support for retribution, surprisingly even in more sophisticated defenses of punishment.

Such co-optation of religious thought is disturbing to any student of theology for two reasons. First, because it is absurd to generalize from the ancient Hebrew experience which is grounded in a theocratic tradition (a nation dedicated to religion and guided by religious principles), to a modern democracy where church and state are institutionally separate and often are at odds on moral issues.

The fatal flaw in adoption of the lex talionis as an endorsement of vengeance or retribution, however, is that it was quite the opposite. Scripture scholars have concluded that this prescription was not an imperative to seek vengeance; it was intended as a limit on the excessive vengeance wrought against offenders common to that time. In reality it meant no more than an eye for an eye could be exacted as a penalty; it introduced proportionality to punishment. It certainly did not command the seeking of retribution as a method of establishing justice.

Much of the belief in retribution is based purely on the craving for vengeance, and some sociological theorists are straightforward in so stating. They argue that since the community demands vengeance when a crime has been committed, it must, as a matter of social equilibrium, have such vengeance. This may in fact be sound sociology. No detailed exposition of Christian ethics is required, however, to establish that such unmitigated acceptance of vengeance is incompatible with a Christian world-view. The New Testament, taken as a whole, rejects such a stance outright.

There are, however, far more subtle models of retribution, one in particular which grew from the traditions of the medieval church. In the Middle Ages, when the Church was accepted as bringing divine will into earthly institutions, punishment was accepted as reflecting the will of God. This view was planted in American thought by the early Puritans. Plainly, however, such a perspective would not survive today except in popular cultural forms.

Traditionally the Roman Church has advanced two justifications for punishment. The first is that punishment is justified if it is medicinal; in other words if it serves to reform the individual subjected to punishment. The second justification is that punishment is acceptable when it is expiatory, which is to say that it cleanses or purifies the soul of whomever is punished. Applied to ecclesiastical structures, such principles have functioned admirably in creating a person-centered body of Church law. Drawing upon this tradition, however, a conclusion some social theologians have drawn is that secular systems of criminal justice can be similarly justified.

As applied to secular law, this justification can be subjected to substantial criticism. It ignores the historical dimension of theological inquiry, and the critical differences in the evolution of church and state. For punishment by imprisonment in America reforms precious few individuals. On the contrary, it embitters, dehumanizes, and brutalizes the majority of those who experience it. Imprisonment does not purify human beings—it corrupts them. Abstract arguments on the beneficial aspects of punishment lack sufficient humanistic focus to be persuasive. In the final analysis such arguments are valid only in a historical vacuum.

Retribution theory also distorts classic Judeo-Christian conceptions of justice by implicitly reducing the concept of justice into separate components: distributive justice referring to the allocation of resources in society, (i.e. social justice), and
retributive justice referring to the maintenance of proper order in society by the punishment of offenses, (i.e. criminal justice). This distinction, totally alien to biblical thought, allows us to zealously pursue the punishment of criminals while ignoring larger social inequities which are the root of crime.

To suggest that punishment is a necessary evil in achieving limited goals of social protection may accurately state the case; to attempt its defense on any loftier plane is a nearly impossible task.

Even this cursory review of a wide spectrum of history and theology indicates that modern thinkers have left many fruitful avenues untouched. Plainly there is a need to distill the historical ingredients which comprise contemporary penal practice to expose the assumptions on which it rests. Similarly, a variety of cultural and ethical assumptions about the validity of penal practice and theories when viewed closely may prove to be inconsistent with even more fundamental theological beliefs. Such inquiry, whether pursued by “professional” intellectuals or individual believers and humanists, may ultimately prove to be the best catalyst in sparking widespread interest in penal reform.
The Faculty

Assistant Professor Henry Hansmann received his Ph.D. in Economics from Yale University in December, 1978.

Professor George L. Haskins has been appointed to permanent membership in the Romanian Association for the History of Comparative Law and Institutions. He has, in addition, been invited by the President of the Italian Society for Legal History (Societa Italiana di Storia del Diritto) to deliver a paper on a topic of his own selection before the Society's Fourth International Congress, meeting at Naples in the spring of 1980.

Esther L. Cooperman, Assistant Placement Director, has been elected to a 4 year term as a member of the Board of Managers of Swarthmore College.

Assistant Dean Christopher F. Mooney attended an invitational conference in January on “Legal and Ethical Aspects of Religious Liberty” sponsored by the Institute of Social Ethics of the University of Southern California Law Center. In February, he visited 6 universities in the south to recruit minority students under a grant from the Graduate and Professional Opportunities Program. Also in February, Mr. Mooney delivered the Monroe-Paine Lecture in Religion at the University of Missouri entitled “The Future of the Human Species: The Evolutionary Thought of Pierre Teilhard de Chardin.” In April, his speaking engagements include a lecture to the faculty of St. Joseph’s University—“Death and the Phenomenon of Life” and a lecture to the Pennsylvania Conference on Interchurch Cooperation, “Public Morality and Government.”

Hubbell Professor of International Law Emeritus and former Acting Dean Covey T. Oliver has been Visiting Tsanoff Professor at the Jesse H. Jones Graduate School of Administration at Rice University in Houston, Texas since January, 1979. In late May, Mr. Oliver will teach Admiralty at the Southern Methodist Law School, before returning to the Philadelphia region in August, 1979.

Professor Louis B. Schwartz addressed the Brookings Institution Seminar on the Administration of Justice at Williamsburg, Virginia in March. He spoke on the Reform of the Federal Criminal Code to an audience consisting of Chief Justice Burger, Attorney General Bell, members of the Judiciary Committees of the Senate and House, and the Chief Justices of State Courts. Professor Leo Levin also attended in his capacity as Director of the U.S. Federal Judicial Center.

Assistant Professor Daniel Segal has written, *Survey of the Literature of Discovery from 1970 to the Present: Expressed Dissatisfactions and Proposed Reforms*, published by The Judicial Center in Washington.

Assistant Professor Ralph R. Smith has been reelected to the Association of American Law Schools for the fourth consecutive year. He is also chair-Elect of the AALS Section on Minority Groups, his term of Chair to commence in January, 1980.

Visiting Professor Welsh S. White, has written an article, *Police Trickery in Inducing Confessions*, which appears in the spring edition of the *University of Pennsylvania Law Review*. He will begin assisting the NAACP Legal Defense Fund, also this spring, in a death penalty case where the issue involves the validity of death penalties imposed by a death-qualified jury.
Harry Norman Ball has become counsel to the firm of Busch & Schramm, 555 E. City Line Avenue, Bala-Cynwyd, PA, 19004.

Gerald D. Prather of Meadville, Pennsylvania, was honored in September, 1978, by the Crawford County Bar Association for 50 years of active service in the legal profession.

Daniel W. Long of Chambersburg, Pennsylvania served as borough solicitor for 33-years before his resignation of the post in December, 1978.

Leonard L. Ettinger has been appointed Chairman of the Legal Directory Committee of the Philadelphia Bar Association.

Leon S. Forman of the Philadelphia firm Wexler, Weisman, Maurer & Forman, is co-chairman for planning of the upcoming course of study on "The New Federal Bankruptcy Code" sponsored by the ALI-ABA Committee on Continuing Professional Education.

R. Stewart Rauch, former Chairman of the Board of the Philadelphia Savings Fund Society, was named as recipient of the 1977 Philadelphia Award. The Award includes a $15,000 cash prize to a person in the Delaware Valley area who has advanced the "best and largest interest of the community."

Joseph N. Bongiovanni, Jr. has been named Chairman of the Charter & Bylaws Committee of the Philadelphia Bar Association.

Hon. Phyllis A. Kravitch of Savannah, Georgia, currently a judge of the Superior Court of Georgia, has been nominated by President Carter to a seat on the Fifth Circuit Court of Appeals. If the nomination is confirmed by the Senate, Judge Kravitch will become the second federal appellate judge who is a woman.

Mitchell W. Miller of the National Bankruptcy Clinic, Inc., Philadelphia, addressed the second annual National Conference of the American Legal Clinic Association in Orlando, Florida.

Bernard Wolfman, former Dean of Penn Law School and presently Professor of Law at Harvard, has been elected to the Council of the American Association of University Professors. He was the Association's General Counsel from 1966-68.

Hon. Louis G. Hill of the Municipal Court of Philadelphia is a candidate for Judge of the Court of Common Pleas. Judge Hill, a former state Senator, chaired the Pennsylvania Senate Judiciary Committee for 7 years and sponsored more than 60 Acts dealing with judicial matters.

Robert A. Hauslohner of Philadelphia has been elected treasurer of the Board of Trustees of The Philadelphia Museum of Art.

Harold Berger has been appointed Chairman of the International Law Committee of the Philadelphia Bar Association.

Arthur R. Littleton is the newly appointed Chairman of the Client's Security Fund Committee of the Philadelphia Bar Association.

Edward W. Madeira, Jr., has been named Chairman of the Federal Bench-Bar Committee of the Philadelphia Bar Association.

John T. Miller of York, Pennsylvania, has been elected Treasurer of the York County Bar Association.


Jerome B. Apfel has been appointed Chairman of the Mental Health Committee of the Philadelphia Bar Association.

Robert Montgomery Scott, a partner in the Philadelphia firm of Montgomery, McCracken, Walker & Rhoads, has been appointed a Vice-President of the Board of Trustees of The Philadelphia Museum of Art. He is also a member of the Philadelphia
International City Coordinating Committee, a body to help coordinate activities which will aid in making Philadelphia an International City.

Morris M. Shuster has been named Chairman of the Legislative Liaison Committee of the Philadelphia Bar Association.

'55 Stephen M. Feldman is Chairman of the Amicus Curiae Committee of the Philadelphia Bar Association.

Hon. Irving M. Hirsh was recently appointed to his third term with the North Plainfield, New Jersey Municipal Court.

James M. Richardson has become associated with the firm of Busch & Schramm, 555 E. City Line Avenue, Bala Cynwyd, PA, 19004.

Mervin M. Wilf of the Philadelphia firm Hudson, Wilf & Kronfeld, was planning chairman for the annual course of study on "Pension, Profit-Sharing, and Other Deferred Compensation Plans" held in March under the sponsorship of the ALI-ABA, in San Francisco.

'56 Harris Ominsky has been appointed Chairman of the Professional Education Committee of the Philadelphia Bar Association.

Delores Korman Sloviter has been nominated by President Carter to the United States Court of Appeals for the Third Circuit.

'57 Stephen I. Richman, a partner in the Washington, Pennsylvania firm of Greenlee, Richman, Derrico & Posa, presented a paper and participated as a panalist at a symposium of the American College of Chest Physicians International Conference on Occupational Lung Disease in San Francisco. The paper was entitled Meanings of "Impairment" and "Disability": The Conflicting Social Objectives Underlying the Confusion.

'58 Raymond L. Hovis has been elected Second Vice-President of the York (PA.) County Bar Association.

'59 H. Donald Busch has formed, together with Arthur E. Schramm, Jr., '68, a firm for the General Practice of Law—Busch & Schramm, 555 E. City Line Avenue, Bala Cynwyd, PA., 19004.

'60 Ronald Ziegler has been named Chairman of the Delivery of Legal Services Committee for the Philadelphia Bar Association.

'61 Bernard Glassman has been admitted to partnership in the firm of Blank, Rome, Comisky & McCauley, 4 Penn Center Plaza, Philadelphia 19103.

Wilfred F. Lorry is Chairman of the Financial Advice Committee for the Philadelphia Bar Association.

'63 Arnold Machles is Vice Chairman of the Family Law Section of the Philadelphia Bar Association.

Stephen A. Sheller chairs the Travel Committee for the Philadelphia Bar Association.

David C. Toomey is the Philadelphia Bar Association's
Chairman of the Committee on Public Relations.

'64 Francis Moran is Chairman of the Joint Committee of Lawyers and Realtors for the Philadelphia Bar Association.

Wallace A. Murray, Jr. of the Norristown, Pennsylvania firm of Wisler, Pearlstine, Talone, Craig & Garrity, has been elected to a three year term as a director of the Montgomery County Bar Association.

Senator Michael A. O’Pake was honored by the Pennsylvania District Attorneys Association for his support and effort on behalf of securing the passage of the Anti-Crime and Corruption legislative package signed by former Governor Milton Shapp. He has been named Chairman of the State Judiciary Committee and has been reappointed to the Governor’s Commission on Crime and Delinquency, formerly the Governor’s Justice Commission. Senator O’Pake is chairman of a No-Fault Divorce Reform Bill for the state of Pennsylvania, subject to hearings this spring.

Jerome J. Verlin has been elected to the Board of Governors of the Philadelphia Bar Association.

'65 Harvey Bartle, III of the Philadelphia firm—Dechert, Price and Rhoads—has been chosen by Pennsylvania Governor Dick Thornburgh for the post of Insurance Commissioner, in charge of regulating the state’s multibillion dollar insurance industry.

David Perry of Rosemont, Pennsylvania has been appointed to the new position of staff vice president of investment planning for INA Corporation. He is responsible for coordinating investment policy with the corporation’s business objectives, monitoring investment portfolio performance, and researching and initiating new investments in the real estate, natural resources, and leveraged leases areas.

'66 Roger F. Cox has been admitted to partnership in the firm of Blank, Rome, Comisky & McCauley, 4 Penn Center Plaza, Philadelphia, 19103.

Charles P. Northrop is to become vice president, law, of Consolidated Rail Corporation, a congressionally sponsored Eastern freight railroad.

'67 Irene Cotton is the newly elected Secretary of the Family Law Section of the Philadelphia Bar Association.

'68 Brian T. Keim has been named senior vice president of Barber Oil Company, New York, in charge of corporate administrative and legal affairs. He was formerly a partner with Ballard, Spahr, Andrews & Ingersoll, Philadelphia.

John B. Lowy has become a partner in the firm of Gursae, Greene, Kaplan & Lowy with offices at 67 Wall Street, New York, 10005 and at 744 Broad Street, Newark, New Jersey 17102.

Arthur E. Schramm, Jr. and H. Donald Busch, ’59, have formed a firm—Busch & Schramm, 555 East City Line Avenue, Bala Cynwyd, PA 19004—for the general practice of law.

'70 Marlene F. Lachman is a newly elected member of the Philadelphia Bar Association’s Board of Governors. Ms. Lachman has also become an associate in the firm of Mesirov, Gelman, Jaffe, Cramer & Jamieson, Fidelity Building, Philadelphia, 19109, as of January, 1979.

Steven R. Waxman is Chairman of the Community Legal Services Committee of the Philadelphia Bar Association.

'71 Charles Bloom, Jon G. Hillsberg, and Lloyd R. Ziff are instructors at the Evening Division of the Institute for Paralegal Training in Philadelphia.

Alan R. Markizon has become General Counsel of Filmways, Inc., California. Filmways is listed on the New York Stock Exchange and has interests in insurance, publishing and entertainment.
Marc S. Cornblatt has become a member of the firm of Mesirov, Gelman, Jaffe, Cramer & Jamieson, Philadelphia, as of January, 1978.

Richard L. Plevinsky has been admitted to partnership in the firm of Blank, Rome, Comisky & McCauley, 4 Penn Center Plaza, Philadelphia 19103.

Sharon M. Zimmer has become a member of the firm of Hofheimer, Gartlir, Gottlieb & Gross, 100 Park Avenue, New York, 10017.

Leonard Cooper is now associated with the firm of Blum, Moscovitz, Friedman & Kaplan, 730 Third Avenue, New York, 10017.

Frederica Massiah-Jackson, of the Philadelphia firm of Blank, Rome, Comisky & McCauley, was featured in an article, A Lawyer Who Cares About Mental Health, in The Philadelphia Tribune in February. She has been selected a finalist for the Philadelphia Jaycees annual Outstanding Young Leader Award for her involvement with the area’s Mental Health/Mental Retardation Center.

H. Ronald Klasko has been appointed to the Board of Directors of the Jewish Community Relations Council in Philadelphia. He practices with the firm of Abrahams and Lowenstein.

Richard N. Weiner is Chairman of the Committee on Bar Admissions, Placement and Procedures for the Philadelphia Bar Association.


Jason Shargel accepted a position with the Enforcement Division of the Securities and Exchange Commission in Washington, D.C.

Nancy K. Baron-Baer has become associated with the firm of Blank, Rome, Comisky & McCauley, Philadelphia.

Richard A. Friedman has been selected as one of Chief Justice Warren A. Burger’s law clerks for the 1979 Term of Court. He is currently clerking for Judge Harold Leventhal of the D.C. Circuit.

Faith Halter is clerking for Judge Richey in Tucson, Arizona. While at Law School, she participated in the National Wildlife Federation clinic, where she was responsible for several projects that included administrative, judicial, and legislative work. An article which she coauthored, based on her wildlife valuation research, will be published in the fall in Ecology Law Quarterly.

Mary C. Helf has become an associate with the firm of Mesirov, Gelman, Jaffe, Cramer & Jamieson, Philadelphia.

William J. Murphy has been selected as Justice Harry Blackmun’s law clerk for the 1979 Term of Court. He is currently clerking for Judge Seitz of the Third Circuit.
In Memoriam

'05 Harold S. Shertz, Philadelphia, PA, January 12, 1979

'10 Conway W. Dickson, Berwick, PA, November 16, 1978
Maxwell Strawbridge, Norristown, PA, August 20, 1978

'15 Murray H. Spahr, Jr., Haverford, PA, December 25, 1978

'22 Harold F. Butler, Short Hills, NJ, November 17, 1978
Rowland C. Evans, Jr., Pompano Beach, FL, December 31, 1978

'24 Philip S. Polis, Bala Cynwyd, PA, December 22, 1978

'25 William E. Bushong, Jr., Phoenixville, PA, November 26, 1978

'29 Albert S. Herskowitz, Cherry Hill, NJ, December 12, 1978
Guy E. Waltman, Berkley, MI, December 26, 1978

'30 Samuel A. Armstrong, Devon, PA, September 21, 1977
Joseph Kaplan, Carlsbad, CA, December 19, 1978
Edwin J. McDermott, Bryn Mawr, PA, December 6, 1978

'31 Bernard S. Robinson, Philadelphia, PA, December 23, 1978
Carlyle M. Tucker, Philadelphia, PA, November 22, 1978

'32 John J. Foulkrod III, Gladwyne, PA, December 30, 1978

'36 Alfred G. Vigderman, Lexington, MA, November 15, 1978

'38 William E. Hughes, Gloucester City, NJ, November 27, 1978

'48 Roy S. F. Angle, Waynesboro, PA, December 20, 1978

'49 Wesley N. Fach, New York, NY, August, 1978
Martin J. O'Donnell, Freeland, PA, January 6, 1979

'50 Hon. Howard W. Lyon, New Castle, PA, August 7, 1978

'51 N. Dale Sayre, New York, NY, November 25, 1978

'64 Mrs. Leda Rothman Judd, Washington, D.C., December 20, 1978

'78 Carl Schlein, Metuchen, NJ, October 2, 1978
Reunions, Etc.

It’s that time of year again! Reunions commemorating graduation from Penn Law School are already in progress so, if you belong to one of the following classes and have not been contacted and wish to be, write or call Libby Harwitz at the Alumni Affairs Office, The University of Pennsylvania Law School, 3400 Chestnut Street, Philadelphia, PA 19104 or call (215) 243-6321:

- Class of 1929 May 18 50th Reunion
- Class of 1932 May 11 47th Reunion
- Class of 1939 April 7 40th Reunion
- Class of 1949 (Feb.) April 28 30th Reunion
- Class of 1949 (June) Plans in progress 30th Reunion
- Class of 1954 October, 1979 25th Reunion
- Class of 1959 June 2 20th Reunion

Many classes are holding their reunions here at The Law School. The environment offers Alumni a nostalgic return and, in addition, the opportunity to view the extensive changes in the School’s physical facilities since graduation. The reunions, usually in the form of dinner-dances, have proven most successful. In any event, the Alumni Office is ready to assist classes whatever the pleasure.

Have We Heard From You Lately?

We want “all the news that’s fit to print” about you—professionally or in general. The Journal’s Alumni Briefs section is the perfect forum for keeping in touch with classmates and with other Alumni. Information as well as your informal photographs are welcome. Please use the space below:

Name and Class:__________________________

What’s New:______________________________

______________________________

______________________________

______________________________

______________________________

______________________________

______________________________

______________________________

______________________________

______________________________

______________________________

Return to:
The Law Alumni Journal
The University of Pennsylvania Law School
3400 Chestnut Street
Philadelphia, PA 19104
Law Alumni Society
of the University of Pennsylvania
1978-1979

President
First Vice-President
Second Vice-President
Secretary
Treasurer

David H. Marion
Marshall A. Bernstein
Joseph G. J. Connolly
Patricia Ann Metzer
G. Craig Lord

Board of Managers

Theodore O. Rogers
Doris May Harris
Richard Bazelon
Linda A. Fisher
John A. Terrill
Robert W. Beckman
George T. Brubaker
Bernard M. Gross
James A. Strazzella
Sharon Kaplan Wallis
Paul J. Bschorr
Charles I. Cogut
Howard Gittis
Marlene F. Lachman
Morris M. Shuster

Ex-Officio

Harold Cramer and Patricia Ann Metzer, Co-chairmen, Law Alumni Society
Leonard Barkan, Representative of the Law Alumni Society on the Board of the General Alumni Society
James O. Freedman, Dean, University of Pennsylvania Law School
J. Michael Willmann, Law Alumni Representative on the Editorial Board of the General Alumni Society