APPOINTMENTS

VISITING FACULTY

Lisa Bernstein will serve as a visiting professor of law for the fall quarter in 1997. Ms. Bernstein received her B.A. in economics from the University of Chicago in 1986. She is a 1990 cum laude graduate of Harvard Law School. After graduation, she served as a John M. Olin Scholar in Law and Economics at Harvard, then accepted a position as an associate professor at Boston University. Since 1996 she has been a professor of law at Georgetown School of Law. Ms. Bernstein's publications include “Understanding the Limits of Court-connected ADR” (1995) and “Opting Out of the Legal System: Extralegal Contractual Relations in the Diamond Industry” (1992). She will teach corporations and a seminar in corporate governance.


Eric Posner was appointed a visiting professor of law for the upcoming fall quarter. Mr. Posner received his J.D. magna cum laude from Harvard in 1991. He then clerked for Judge Stephen F. Williams of the U.S. Court of Appeals for the D.C. Circuit. From 1992-93, Mr. Posner served as attorney advisor in the Office of Legal Counsel in the U.S. Department of Justice, after which he joined the faculty of the University of Pennsylvania School of Law as an assistant professor. He is the author of “Contract Law in the Welfare State” (1995), “The Regulation of Groups: The Influence of Legal and Nonlegal Sanctions on Collective Action” (1996), and “Law, Economics, and Inefficient Norms” (1996). Mr. Posner will teach a course in bankruptcy.

Lecturer in Law

Javier H. Rubinstein accepted a position as a lecturer at the Law School. He has specialized in complex commercial and interna-

On July 1, Jack Goldsmith joined the Law School faculty as an associate professor. He served as a visiting professor of law during the 1996-97 academic year.

Birth: September 26, 1962, in Memphis.

Education: He received his B.A. in philosophy summa cum laude from Washington & Lee University in 1984, a B.A. in philosophy, politics and economics with first class honors from Oxford University in 1986, a J.D. from Yale Law School in 1989, and a diploma in private international law from the Hague Academy of International Law in 1992.

Clerkships: Goldsmith clerked for Judge J. Harvie Wilkinson of the U.S. Court of Appeals for the Fourth Circuit, Justice Anthony M. Kennedy of the United States Supreme Court, and Judge George A. Aldrich of the Iran-U.S. Claims Tribunal.

Research Interests: conflict of laws, private international law, civil procedure, and foreign affairs law.

Family: Married to Leslie Ann Williams since March 1996.

Professional organizations: Council on Foreign Relations, American Society of International Law, Member of the D.C. Bar, International Law Association.

Personal Interests: History, squash.

My wife and I love the Law School and the city of Chicago. In fact, I was married here last March. Judge Posner married us. We were in town for another event and while here we decided to get married. [Professor] Larry Lessig is an old friend of mine—we went to law school together—and he arranged it for us. We marched into Judge Posner’s chambers and a half hour later we were married.”
tional civil litigation at the Chicago firm Mayer, Brown & Platt since 1989. In that year, Mr. Rubinstein received his J.D. cum laude from Georgetown University Law Center. He served as Midwest co-chair of the ABA Business Torts Litigation Committee and, in 1992, served as counsel to the Illinois Supreme Court Special Committee for the Administration of Justice. Mr. Rubinstein will teach a seminar in international civil litigation.

MOVING ON

Michael W. McConnell ’79, William B. Graham Professor of Law, resigned his position at the Law School. Professor McConnell accepted an appointment at the University of Utah. He was a member of the faculty since 1985.

Stephen Holmes, Professor of Political Science and Law, Law School, Department of Political Science and the College, Director of the Center for the Study of Constitutionalism in Eastern Europe, and Russell Baker Scholar, resigned his position at the Law School. Professor Holmes accepted an appointment at NYU. He was a member of the faculty since 1989.

MILLERS ESTABLISH STUDENT ASSISTANCE FUND

Byron Miller ’37 and Jeanette Rifas Miller ’37, have generously established the Byron S. and Jeanette R. Miller Working Students Assistance Fund. Students who maintain a B average or higher and who are employed a minimum of eight hours or more a week will qualify for assistance.

Since their graduation from both the College and the Law School, the Millers have maintained a strong relationship with the University of Chicago. They have a clear understanding of the economic hardships which some students undertake to seek a University of Chicago Law degree, and hope their contribution will go a long way to alleviate some of the pressures.

The Millers feel they have many reasons to be grateful to the University; including that while students here, they met one another and have since enjoyed life together for almost 60 years.

FACULTY HONORED

Lucas

On October 17, members of the Illinois State Supreme Court honored Professor Jo Desha Lucas with a certificate in recognition of his extensive work on the Supreme Court Rules Committee. Lucas, the Arnold I. Share Professor of Urban Law Emeritus, was chairman of the committee for nearly 25 years and a member for 30.

Professor Lucas began his many years of service at the Law School in 1952 when he was appointed a Bigelow Fellow. The following year, he was named an assistant professor and dean of students. He became a full professor in 1961. He is one of the country’s leading authorities in the field of practice and procedure.

Senior Lecturer Barack Obama was elected a member of the Illinois State Senate, representing the thirteenth legislative district, on November 5.

Obama

Obama’s constituents include residents in the Hyde Park, South Shore, parts of Englewood, and several other communities in the Chicago area. Obama, who serves on the boards of a number of civic organizations—including the Joyce Foundation, the Woods Fund of Chicago, and the Chicago Annenberg Challenge, which funds school reform efforts—plans initially to focus on the state legislatures efforts on welfare reform, public school funding, and the promotion of small business development.

Since 1992, Obama has been a member of the law firm of Davis, Miner, Barnhill & Galland, where he specializes in civil rights legislation. During the 1996–97 academic year, Obama taught courses on constitutional law and voting rights, as well as a seminar on racism and the law.
The Millers look back upon their time at the Law School with a great deal of pride, particularly regarding the distinguished Class of 1937.

After graduation from the Law School, both Mr. and Mrs. Miller moved to Washington, D.C. where they both worked in the Office of Price Administration. Mr. Miller also served as general counsel to the Office of War Mobilization and Reconversion and helped draft the McMann Bill for control of atomic energy. Mr. Miller then became general counsel to the American Jewish Congress. They returned to Chicago in 1947, when Mr. Miller returned to private practice. He eventually joined D’Ancona & Pfau. He retired from the firm two years ago. Beginning in 1980—to avoid those grueling Chicago winters—Mr. Miller taught Estate Planning at the University of San Diego.

Mrs. Miller took time away from her legal career to raise three daughters—all attorneys—and involve herself in civic organizations where she claims she was responsible for writing, and getting others to agree on bylaws using Roberts Rules of Order.

In accepting their gift, Dean Douglas Baird said, “This gift serves as a shining example of the generosity and devotion Byron and Jeanette have displayed toward the University and the Law School throughout their lives. The Byron S. and Jeanette R. Miller Working Students Assistance Fund will go a long way to addressing a central need of our students. We are deeply honored and grateful for their support.”

**The Joseph Green Scholarship Fund**

As reported in the Fall 1996 Record, the estate gifts of Joseph E. Green, Law School Class of 1931, to the University and the Law School included a residual amount for the Law School to create a scholarship fund. The amount of this residual is over $1.2 million making the Joseph E. Green Scholarship Fund one of the largest such funds at the Law School.

Dean Baird said that “this gift will make a significant difference in our ability to offer financial aid to deserving students. I know Joe would be proud of the importance his generous gift will have in the life of the Law School.”

**Tax Conference**

The Law School’s 49th annual Federal Tax Conference drew participants from across the country. During the three-day event, held in Chicago’s Swissotel on October 28-30, a variety of subjects was discussed, including taxation and the Internet, executive compensation, reorganizations and similar transactions, corporate debt and equity, international tax planning, and recent developments in policy planning. Jeffrey Sheffield, lecturer in law and a partner with Kirkland & Ellis, presented a talk entitled “Breaking Up is Hard to Do: Spin-Offs and Split-Offs under Code 355” during which he examined topics relating to corporate spin-offs and split-offs, including the use of leverage, spin-offs followed by acquisitions, and the use of IRS pronouncements, proposed legislation and the future of spin-offs in the face of General Utilities repeal.

The program also included “Prospects for Fundamental Tax Restructuring,” delivered by Professor Elizabeth Garrett; and “Estate Planning for Sophisticated Executive Compensation Techniques,” which analyzed transfer tax planning for executives of both closely held and publicly-traded corporations, using the most recent executive compensation techniques, and presented by Sheldon I. Banoff ’74 a partner with Katten Muchin & Zavis.

**Clinic Award**

During a special lunch in the Law School’s Green Lounge, the Anti-Poverty Project of the Mandel Clinic presented the 1997 Operation IV-D Hound Dog of the Year Award to Paula Roberts. This marks the first time the Project has honored someone for outstanding service to women and children in child support enforcement. Roberts is a senior staff attorney at the Center for Law and Social Policy in Washington, D.C. For continued on page 18
Visiting Committee

Concentrating on those issues that affect long-range planning, members of the Law School's Visiting Committee met for their annual meeting on November 7-8. After the traditional continental breakfast, Mitchell Shapiro '64, chair of the committee, welcomed the members and introduced Lawrence Furnstahl, vice-president and chief financial officer of the University of Chicago, who spoke on the university's long-range plans. After Dean Douglas G. Baird brought them up to date with an overview of the current status of the Law School, attention shifted to a series of small group sessions, each of which focused on separate long-range planning issues.

The first session, chaired by Lee Rosenthal '77 and attended by Professor Richard Epstein, analyzed aspects of faculty retention planning and how the faculty turnover rate, though comparable to that of peer institutions, affects the Law School more because of its relatively smaller size. Session two was chaired by Mitchell Shapiro '64 and featured Professor Randal Picker '85. Committee members discussed the effect the dramatic changes in the practice of law—such as the disappearance of long-established firms and the greater dependence on technology—have on law school curricula.

Finance and school operations were the topics attended to in the third session. Chaired by Don Bernstein '78, who joined Associate Dean Christopher Heiser and Assistant Dean of Development Gregory Wolcott, the session touched on the changes in revenues and expenses. The final session was chaired by Daniel Doctoroff '84 and attended by Professor Dan Kahan and Deans Holly Davis '76, Ellen M. Cosgrove '91, and Suzanne Mitchell. Public Relations was the issue, and the group discussed the Law School's image and how that affects the ability to recruit faculty and students. After a lunch time break, during which members had the opportunity to meet with students and hear their views, the committee reconvened for group reports and discussion. James Mercer '71 and Law Librarian Judith Wright outlined the tremendous advances the Law School has made in the past few years in all areas of technology and looked forward to what lies ahead.

That afternoon, committee members joined faculty, staff, and students in the Weymouth Kirkland Courtroom to listen to the 1996 Wilber C. Katz lecture. Professor David Strauss delivered the address, entitled "Does it Matter if We Amend the Constitution?" A reception followed the lecture, after which the committee gathered in the Burton-Judson Lounge for dinner.

The following day, committee members met with Dean Baird who discussed with them the objectives of the Law School and plans to obtain them.

A complete list of the Visiting Committee can be found on the back page of this magazine.
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the past 25 years, she has worked on issues of welfare reform, child care, and child support and is the author of numerous law review articles on these subjects. In presenting the award to Roberts, Clinical Professor Gary Palm commended her leadership in developing working models for combining litigation and legislative advocacy. "She is the national leader in this field," said Palm. "Paula represents the kind of mix of theory and practice that modern clinical scholarship should emulate."

Schwartz Lecture

On January 22, Roberta Cooper Ramo '67, a member of the Albuquerque law firm of Poole, Kelly & Ramo and former president of the American Bar Association, delivered the 1996-97 Ulysses S. and Marguerite S. Schwartz Memorial Lecture. In a speech to the Law School community entitled "The American Lawyer in a Fourth Century," Mrs. Ramo examined the role of the lawyer in American society during the first three centuries of jurisprudence on this continent, and looked forward to the changes in store that await the legal profession in the next hundred years.

Lawyers, Mrs. Ramo noted, have held four key roles in the advancement of American society: they are the architects of systemic problem solving; they are the parties who guide conflicts to peaceful resolutions and conclusions; through their willingness to be active public servants, they are great American citizens; and they are stubborn upholders of the truth, unbending to what may seem popular.

But as we enter into the fourth century, she continued, legal practitioners need to face the several crises that threaten American society today. She warned there was a justice crisis in the civil sector and said that complete access to the justice system was imperative. "If we begin to ration out justice, all Americans will suffer."

Litigation, she continued, is now increasingly rare and will be even rarer in the next century. Mrs. Ramo urged that alternative dispute resolution is important to learn.

And finally, lawyers must lead full and complete lives that must include their families as well as their practices.

The Schwartz lecture was established in 1974 and underwrites visits to the Law School by distinguished lawyers with experience in academia, in practice, or in public service to share experiences and ideas with the Law School community.

Katz Lecture

Amendments to the United States Constitution are far less important than is naturally assumed. This is the conclusion reached by Professor David A. Strauss, the Harry N. Wyatt Professor of Law, during the annual Willber G. Katz Lecture on November 7. Speaking from the podium in a crowded Weymouth Kirkland Courtroom, Professor Strauss assailed the current trend in Congress for "Amendment-mania." In the past two years, he observed, 157 amendments have been proposed on 32 subjects; in his recent presidential campaign, Bob Dole alone proposed amendments aimed at school prayer, flag desecration, term limits, and budgetary balance.

Labeling such efforts as sorely mis-

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about by extra-amendatorial means. Second, despite non-ratification, many failed amendments have subsequently become parts of the American governmental fabric. Finally, few amendments have impact on American life until society has evolved and embraced them.

In the end, Professor Strauss stressed that society gets the government it wants, with or without amendments. Traditions, customs, and evolutionary forces are the true facilitators of change in a mature society.

**Roundtable Panel: Perspectives on Direct Democracy**

**Perspectives on Direct Democracy**

On Friday, November 15, 1996, students and professors packed the law school courtroom to hear a panel discussion on direct democracy sponsored by *The University of Chicago Law School Roundtable*. After opening remarks and introductions by Dean Baird, the discussion commenced, featuring as panelists Barack Obama, a senior lecturer in the Law School and Illinois State Senator, and Professor Elizabeth Garrett, assistant professor in the Law School and former legislative director for Senator David Boren (D.-OK). The panelists debated the effectiveness of recent popular initiatives and referenda designed to give people a direct legislative voice through majority vote.

As Professor Garrett pointed out, it comes as no surprise that interest in initiatives and referenda has heightened “at the same time there is growing disillusionment with government and politicians.” Experts project that the upcoming decade will present nearly 100 more popular initiatives than the high water mark of direct democracy during the Progressive Era. California alone presented 71 initiatives in the 1996 election year and will probably hold votes on at least twenty more this year. Obama described this trend in direct democracy as a response to the feeling that government now seems too remote and that civic participation has declined. Industrialization, modern communications, high mobility and urbanization have diminished the ability of people “to come together and participate in politics.” As a result, says Obama, “what’s replaced it has been sort of a narrow interest..."
group politics that never involves reconciling differences because we’re never having a conversation face-to-face with people who may have different opinions … or [different] interests.” Thus, as Garrett explained, direct democracy gives citizens the “idealistic notion” that they can end political alienation and become legislators themselves.

Nonetheless, as the panelists argued, recent initiatives and referenda have not decreased the influence of narrow special interests nor increased political participation. The recent voter initiatives did not encourage citizens to participate in the vivacious discussions in the block clubs, barbershops, bowling leagues, PTA’s, unions and churches from yesteryear that Obama described. Instead, voters experienced participation in direct democracy through “a catalogue of initiatives, drafted in incomprehensible language, printed in tiny type to save money, and virtually impossible to tell whether a yes or no gets the vote they are looking for.”

Additionally, asserted Obama, direct democracy may exacerbate the gap between representative government and public participation. As he explained, the high costs of passing initiatives or referenda may prevent broad or comprehensive discussion about the underlying issues. Instead, privileged groups with spending power simply engage in campaigns to market and package their ideas. Moreover, the conservative tendency of public debate may unfairly disadvantage initiatives which require more public spending or higher taxes. With the difficulty of raising money and persuading voters to support more spending, direct democracy perhaps accomplishes nothing more than promoting the status quo.

Furthermore, as Garrett suggested, voter initiatives can increase the comparative advantage of narrow special interest groups “from determining what issues get on the ballot, to how the issues are framed, to shaping the debate, and to the success or failure of valid initiatives.” Because getting issues onto the ballot typically requires a substantial percentage of gubernatorial voting populations, direct mail companies have much more success soliciting supporters versus face-to-face public solicitations through the classic “table in the shopping mall.” Little public discourse arises when these special interest groups emphasize speed and efficiency in getting issues onto the ballot. In fact, most recent suggestions include soliciting signatures on websites over the internet. Garrett emphasized that in representative government, voters elect politicians with the aid of information such as political party affiliations and incumbency records. In the context of direct democracy, voters are left to sift among a large range of potentially deceptive interest group campaigns. Garrett cited a study of major ballot questions where the biggest spending side won almost 80% of the time. She urged the audience “to be very realistic in the role of special interest groups in this entire process.”

**Musical Treat**

Confronted by an odd assortment of stranger-than-usual faculty members, desperate administrators, wide-eyed law students and a smattering of Oompah-Loompas, prospective law students learn the rigors of the law school admissions process the hard way in "Charlie and the Law Factory," the 13th annual Law School Musical. Presented in the Glen A. Lloyd Auditorium on February 21-22, the musical laid bare several law school secrets, such as Professor Elizabeth Garrett’s unique method of grabbing her student’s undivided attention (below).

**Student News**

**Awards and Honors**

Last October, 3L Rebecca Glenberg became one of four recipients of the Award for Exemplary Public Service presented annually by the National Association for Public Interest Law (NAPIL) conference in Washington, D.C. The award recognizes law students who have made significant contributions in the field of public interest law.

During the past summer, Glenberg worked on two significant projects at the Roger Baldwin Foundation of the ACLU. The first project involved schools in a pri-
arily African-American East St. Louis community. Many of the schools do not have teachers for every classroom, operate with a shortened school year, and lack basic facilities like working toilets. Rebecca was instrumental in developing a complex federal constitutional theory that the State incurs an obligation under the due process clause to provide at least a minimally adequate education in those schools. This work became the basis for a reply brief filed in the Illinois Court of Appeals.

Glenberg’s second project was helping to draft an amicus brief on behalf of a Native American woman convicted of child neglect based, in large part, on the fact that she drank during her pregnancy. Glenberg argued that a woman’s right to privacy means that she retains autonomy and independent decision-making during pregnancy, and the State cannot regulate her conduct simply because she is pregnant.

Glenberg remains committed to civil rights and liberties issues and plans to enter the field of public interest law after graduation.

The firm of Wildman, Harrold, Allan & Dixon awarded Elisa Davis 97 a Public Interest Law Initiative Fellowship to serve as a graduate fellow this summer in the Mandel Clinic. Davis, a native of New Jersey, received her B.A. from Brown University. Last year, she served as president of the Black Law Students Association and participated in the Immigrants’ Rights Center and Neighbors, a community outreach group.

Charity Auction

On Friday, January 31, with the ever-popular Professor Richard Epstein as auctioneer, the annual Charity Auction raised close to $15,000 for the Woodlawn Organization, a group committed to the development and improvement of the neighboring Woodlawn community. The most popular item on the docket was a party for 60 students to be hosted by Professor Richard Helmholz at his beautiful Hyde Park home. The event was finally purchased, after a spirited bidding war, for an amazing $2,525. Even more amazing was auctioneer Epstein as he read aloud the particulars of one last-minute entry to be auctioned: a full-day with the Epstein family at their summer home in Michigan, donated by the Professor Epstein’s wife. Much to his pleasure, the package sold for nearly $1,500.

(And for those who keep tabs on these things, perennial favorite “An afternoon with Professor Cass Sunstein’s dog, Bear,” went for only $60 this year, a quarter less than the previous year’s winning bid.)

Trivia Contest

Somehow, the outcome was never much in doubt. On April 11—for the eighth year in a row—the student Trivia Contest team wiped the floor with their faculty challengers. Cheered on by an enthusiastic mix of students, faculty, and visiting admitted students, the A-Team, consisting of 1L students Mike Zwiebelman, Brad Tusk, Eric Miller, and Mike O’Connell, held at bay the best efforts of the Faculty All-Stars. Professors Joseph Isenbergh, Elizabeth Garrett, Tracey Meares ’91, and Dan Kahan (seen above in deep, yet futile, discussion), though leading by four points at the end of round two, were unable to prevent the rout that ensued.

Addendum

Unfortunately, the Law School Record was in possession of an incomplete list of 1997-98 University of Chicago Law Review editors when the last issue went to press. Consequently, the name of David M. Gosssett, the Review’s new associate editor, was left out of the printed list. The Record regrets this omission.