Words of Celebration and Caution for the Class of 2001

On the picture-perfect morning of Friday, June 8, the Class of 2001 began its day of celebrations at the University Convocation in Harper Quadrangle, where President Don Randel conferred 194 J.D. and 44 L.L.M. degrees. The graduates and their families swiftly moved on to the Law School's Hooding Ceremony at Rockefeller Chapel, and finally to a reception at the Law School.

At each ceremony, the Class of 2001 received inspirational messages—words of both celebration and caution for a new millennium.

Martha Nussbaum, the Ernst Freund Distinguished Service Professor in the Law School, the Department of Philosophy, and the College, gave the commencement address, speaking on "Political Animals: Luck, Need, and Dignity."

In the address, she spoke about the problems of our founding social contract theories which underlie much of the way we think today about our citizenship and related human dignity. These founding contracts, which have historically focused on mutual advantage and that only involve participants who are equal and competent adults, omit an imagination of human beings as mortal and disabled. She explained that the omissions of these and earlier classical works, have perniciously influenced U.S. public policy, which to this day continues to eclipse our modern sense of responsibility to support the needs of those who are physically or mentally disabled, and their caregivers.

As weakness is a natural human state from which no one is exempt at certain times, she suggested that society has chosen to overlook an ever deeper idea of our nature—Aristotle's notion of our split animal and rational self. Only by embracing a unique sense of human dignity and commonality that includes weakness, can we apply valuable corrective actions to our political foundations and perspectives, encouraging our nation to "move beyond the social contract tradition, with its bleak announcement that only those who are productive deserve to be respected as full citizens. Let us say, instead, that we all deserve respect for what we are, disabled political animals, each one an individual with dignity." On a day celebrating high achievement, she urged the graduates "to remember . . . a thought about the dignity and human worth of the weaknesses of the human body, and of the acts of care and concern that support them."

At the Hooding Ceremony following, Interim Dean Richard Epstein welcomed the graduates and their families. His remarks were followed by addresses from Douglas G. Baird, Harry A. Bigelow Distinguished Service Professor of Law, and Judge Abner J. Mikva, '51, former White House counsel for President Clinton and chief judge of the District of Columbia Circuit Court of Appeals (remarks from the Hooding Ceremony are on pages 11 through 13).

Graduates then received the hoods associated with their advanced degrees from Professors Emily Buss, Dennis Hutchinson, Jack Goldsmith, and David Strauss or from their alumni family members. Joan Burns was hooded by her father, James Burns, '72; Matthew McCarthy by his father, Robert McCarthy, '72; Alina McLaughlan by her father, William McLaughlan, '72; Karen Fried by her sister, Audrey Fried-Grushcow, '98; France Jaffe by her aunt, Anne Giddings Kimball, '76; Husband and wife Thomas Banks and Candace Dohn Banks, both members of the Class of 2001, hooded each other.
1. Graduates Katie Wood, Velerie Hletko, and Heidi Oertle enjoying the moment.
2. Graduates Wendy Wu, Felix Amerasinghe, Hae-Won Min, and Brian Lee.
3. Professor Albert Alschuler in full graduation regalia. Faculty congratulate the Class of 2001 as it proceeds out of Rockefeller Chapel.
Class of 2001: Celebrating High Achievement, Facing the Challenges of the New Millennium

Enoch Minn, J.D./M.B.A., Goldman Sachs, Investment Banking Group

Enoch Minn chose to work at Goldman Sachs in investment banking because it is an arena in which he can pursue his interests in business without completely losing touch with his legal education. Minn was the managing editor of the Roundtable and was also active in Asian American Law Students and Christian Law Students. “The Law School is probably the thing in my life that has really intimidated me. While I will never feel that I ‘conquered’ Chicago (much the opposite, in fact), I wholeheartedly believe the education I received is unparalleled.”

Jonathan Mitchell, J.D., Clerk, the Honorable J. Michael Luttig, U.S. Court of Appeals for the Fourth Circuit

Jonathan Mitchell is the oldest in a family of seven boys. He came to the Law School directly from Wheaton College in Illinois, where he majored in computer science and political science. He was articles editor of the Law Review and president of the Federalist Society and also found time to be a research assistant to Professor Richard Epstein. Following his clerkship with Judge Luttig, he will clerk a year for Justice Antonin Scalia. As to his experience at the Law School, “I loved it.”

Elizabeth Pelletreau, J.D., Foreign Service Officer, United States Department of State

Elizabeth Pelletreau says that in going to work for the State Department, “I’m going into the family business.” Her parents both worked in international affairs, and her father was a career Foreign Service officer. In addition to working on the Chicago Journal of International Law, “I was a proud member of Apathy, the women’s football team, for all three of my years here.” She spent a summer working through an internship funded by the Chicago Law Foundation, which led her to be active on the CLF board, serving as its president.

Eduardo Herszkowicz, LL.M., Associate, Arnold & Porter

Eduardo Herszkowicz grew up and was educated in Sao Paulo, Brazil. He says of his time as an LL.M. student: “It was a great year, both personally and professionally speaking. The manner [in which] the courses are structured, and the intellectual challenge they offer, encourage students to learn and give their best.” He plans to work at Arnold & Porter for about a year in the areas of privatization and project finance related to Latin America, then return to Brazil to practice.

Christopher May J.D./M.B.A., Associate, Fish & Neave

Christopher May, who was a chemistry major at Duke University, will use his science background at the New York City intellectual property firm of Fish & Neave. He believes that intellectual property law is an excellent way to combine his legal and business school educations. As chair of the Black Law Students Association, he helped implement a mentoring program for new African-American students, using African-American alumni as mentors. May found that one of the biggest challenges in studying law was the difference in approach from studying science—“in studying science, the emphasis is more on reaching a final answer, while in law the emphasis is on the process of reaching conclusions.”

Irene Fabrikant Donovan, J.D., Associate, Schopf & Weiss

Irene Donovan has traveled a long way to her new position at the small Chicago litigation firm of Schopf & Weiss. Born in Belarus (in the former USSR), she and her family moved to the United States when she was six. She was senior articles editor of the Roundtable at the Law School. At the end of her second year, she gave birth to her daughter Emma Sophie. She spent her third year “essentially doing two things. The first was trying to figure out parenthood. The second, being jealous of the ILs—of the unmitigated awe with which they still regarded the place. That awe is well-deserved.”
DEAN FOR A DAY
Remarks to the Class of 2001
By Richard Epstein

As I welcome you on this occasion, I cannot but help to reflect for a few minutes on what I have learned, in my brief tenure as interim dean, about the transition from the world of scholarship to that of academic administration. Crudely put, in academics, three points matter: boldness, rigor, and subtlety.

Boldness counts, because the greatest advances in thought come from those who take the greatest risks of failure, by flying in the face of the conventional wisdom. If that wisdom rejoices in the welfare state, then why not, next Tuesday, declare the New Deal unconstitutional?

Rigor counts, because academics need to show their ability to manipulate models that emulate the formal purity of mathematics and physics. So why not, after a stiff drink, assume that all individuals are rational maximizers of their individual utility?

Subtlety counts, because academics must show a mastery of the obscure points within their fields. Why not, before breakfast, distinguish among the six different theories of causation in order to show how they necessarily require different outcomes in one-tenth of one percent of all litigated cases?

These three recipes for academic success are, however, often surefire prescriptions for administrative failure—for reasons that are well worth a brief academic exploration. What matters is the change in role. A professor is by design insulated from the institutional pressures that might induce him or her to travel down the middle of the road. But deans have to shy away from the edges of the road, and march down a central path. Unlike faculty members who do best when they venture forth on their own, deans have to lead and they have to compromise. They have to implement institutional policies on which they hold deep personal reservations. They have to hold together people of fundamentally different opinions. They have to accept the social limitations on their legal powers, and to understand that in reality they work for everyone who nominally reports to them. In this environment:

Boldness does not work. Words have to be used with a certain circumscription. A dean, at least this dean, has to learn to act against nature—to listen first, and to speak later.

Analytical rigor must be taught its place. The formal theories of utility maximization give way to the messier realm of human psychology. Attention first goes to morale, tone, culture, and mood—all vital and all hard to quantify. Management is not economics. Markets are more rational than firms; and firms are more rational than the harried individuals who work for them.

Subtlety is also out. A dean has to stick to a well-marked highway. Idiosyncratic insights on remote possibilities have to give way to clear mission statements. Repetition of a few strong themes matters more than intellectual refinement.

Low probability events are best ignored in general planning. People can work together effectively only when they are on the same page, and they can only get there if that page is not cluttered with detail.

In short, reflecting on this reversal of roles has taught me much in my decanal year, and I think that it offers some signposts to your lives as lawyers. You too will fill multiple roles and you too will have to deal with the questions of a split personality. The lawyer as advocate must take strong positions and march to the sound of his or her own drum. But lawyers are also human beings who work and live in tight firms and communities in which it is not possible to play protagonist and lone wolf all day long. Your success in the business of law, indeed in the business of life, requires you to develop the same set of soft skills that have been thrust on me in my short term of academic administration.

Now that I am about to return to my familiar academic haunts, I hope to unlearn, but only in part, some of these lessons in order to fulfill the traditional scholarly role. But I do hope that you will be able to carry these lessons forward with you in your many professional and personal endeavors. The intellectual skills that you have acquired here will prove indispensable in your professional lives, whether you remain in the practice of law or move beyond it. But do let these intellectual attainments lead you to overlook these simpler, but vital keys to the personal success that I am confident will be yours in the years to come.
CARPE DIEM! Remarks to the Class of 2001
By Douglas G. Baird

With our Dean and Judge MiIva, it is a great privilege to welcome you officially to the distinguished company of those who have studied law at the University. The past is prologue. So when you look around at your classmates, you see future Senators and members of Congress; Attorneys and Solicitors General; Judges and ambassadors; CEOs, investment bankers, and entrepreneurs. You see people who will make decisions of tremendous moment.

Indeed, all of you will, at several points in your careers, find yourselves in the midst of great events that will test your intelligence and your judgment. But consider too the time between these events. Recall the hoary Latin maxim, "Carpe Diem!" In our time, "carpe diem" is typically translated: "Seize the day!" It is understood as a strong imperative: Take command of your destiny! Take the initiative! Be decisive! Its original meaning, however, was something quite different.

For the Latin poet Horace, "carpe diem" meant: Take the moment. Contemplate the present. "Carpe" was the verb Romans used to pick a flower. It was not the verb they used to take something by force of arms. "Carpe diem" first meant: Take pleasure in the present; Learn how to enjoy the life you are living now.

To be sure, when your moment comes, you should take command of your destiny. But make good use of the time between the great challenges. Look forward to this time, the time you spend mastering and practicing your craft.

The lawyer's craft is hard for the outsider to understand. We do not have the carpenter's tool box, the physician's medical bag, or the magician's magic wand. We still begin with a pencil and a yellow legal pad.

Little of the lawyer's craft comes from rote learning. Latin maxims are second nature to you now. Expressio unius est minima non curat lex, res judicata. But you also know these do not get you far. Flamboyant oratory and fancy terminology are not what we are about. Poets use words mysterious and obscure. Our ambition is to take the most complicated idea and make it accessible. We persuade by speaking softly. Our words must be simple and direct—"original" in the 18th century sense, something true to its origins, its roots.

We are the ones who see through form to substance. Our arguments rely not on what is novel, but what is essential. We find the simple arguments that have eluded others.

And we ask the simple questions everyone else is too embarrassed to ask. Someone starts the meeting, "Now, of course, all of us know what a flux capacitor is." We are the ones who raise our hands and say, "Actually, I don't. Would you mind explaining it please?"

We find an alternative and more compelling way of looking at the same facts. Every day, we probe the maxim that no matter how thin the pancake, there are always two sides.

Learn to enjoy the pleasures of practicing our craft, the lawyer's craft—the art of being able to create the argument or fashion the transaction well.

Some number of years ago, one of our graduates wrote us to say he was looking forward to his 20th reunion and, in his words, "rub[bing] shoulders with the rest of the class that is now rich and famous." But he also wrote about his own life as a practicing lawyer in a rural town in Minnesota.

There are, to be sure, low points—such as losing two cow cases for the same client. But most of all, we see someone at work in a community he knows and loves. A person of intelligence and judgment who enjoys a life in the law for its own sake; someone who savors the moment in the practice of his craft.

I leave you then with a simple thought. To be lawyers of the first rank, we must understand "carpe diem" in both its senses. Only by practicing our craft well can we be ready for our great moments when they come.

For our lawyer in Minnesota, the moment came a few years after he wrote this letter. He won election to Congress, and proceeded to use in Washington the tools he had honed in his small town.

May you too flourish in all your endeavors, great and small. Carpe diem!

Left: Celebrating graduates Heath Daon and Jeremy Bates toast the past and future.

Opposite page: (left) Graduates (left to right foreground) Elizabeth Lee Brown and Greg Brown applauding one of the faculty speakers. (right) Graduate Christopher May and guests celebrating outside Rockefeller Chapel.
The Law of Courage

Remarks to the Class of 2001 By Abner Mikva, '51

Fifty years ago, almost to the day, I sat where you are sitting to receive my law degree from the University of Chicago Law School. Rockefeller Chapel never looked as good as it did to me that day, or to you this day. Our commencement speaker—it paints me to say that I can't remember his name. Nor can I remember a word that he said. It's with those dismal expectations that I speak.

This blessed place has equipped you with a superb legal education. You are capable of competing with anyone anywhere and doing wondrous things in or out of the profession. The one ingredient that you have to provide on your own is courage— the courage to do the hard and complicated things that will satisfy you—the courage to make the most use of those talents that you have—the courage that will refresh and restore the nobility of the profession that you are about to enter.

President Reagan and President Clinton loved to point to people in the gallery when they were delivering their State of the Union addresses to illustrate a point or identify with examples of worthy citizenship. Usually, they pointed to courageous policemen or firemen who had rescued a child, or servicemen who had performed above the call of duty. I want to talk about a different kind of courage, an intellectual courage, where the action is neither physical nor popular. So, pretend with me that there is a gallery here in Rockefeller, and let me tell you about who I see sitting there as examples of the kind of courage that I mean.

There sits George Anastaplo, who graduated first in my class of 1951. He was the iconoclast of our class, from not showing up for graduation to dressing super casual when that was not the style. But the example of courage that I want to cite is his refusal to tell the Character and Fitness committee of the Illinois Bar whether or not he was a Communist, a label which fits him about the way it would fit Dean Epstein. But it was at the height of the McCarthy era, and the bar leaders were most suspicious of the beliefs of graduates from such well-known left-wing law schools as the University of Chicago. George Anastaplo took his stance because he believed it was the right thing to do, that he had to resist what he perceived as an interference with the freedom of beliefs and association. And he took that position at the expense of not ever being admitted to the bar. He took it against the advice of his teachers, his dean, his classmates, and he paid a high price for it.

There sits a teenager from a small town in Illinois. Last month, she graduated as the valedictorian of her public high school class. She thought it was wrong to have prayers said at her graduation ceremony and successfully brought a lawsuit to prevent the prayers from being voiced. She gave up her right to deliver the valedictory speech to her class, and she was the recipient of much criticism from classmates, teachers, and friends, including a goodly number of boos when her name was read off at graduation.

She displayed great courage to implement principles that she believes are important for our society to maintain. It is unlikely that they would have been invited to sit in the gallery at the State of the Union, because their kind of courage is never popular with peers. But, as lawyers, you have the special capacity and opportunity—and responsibility—to exercise that quality. Your challenge will come. Whether it is career choice, or client choice, or strategy choice, you will be asked to make the hard choice. It is one of the unique ways that lawyers can give back to their society a quid pro quo for what they have been given. But you should know that when lawyers do exercise that kind of courage, it is especially condemned because the presumption is that the lawyer is hustling in some form or other.

No, you are not likely to get kudos for your courage. You are not likely to get big fees. The only reason for making such decisions is because you think they are important and you think that they are right. If you do, you will be worthy of the great expectations that are held for you.

You can read the full text of the hooding ceremony speeches, as well as the text of Martha Nussbaum's graduation address, at www.law.uchicago.edu/news/hooding.html.