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Cover
Coat of arms of the Oba (tribal king) of Lagos, Nigeria. Picture taken by David Currie.

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Dean's Page

Teaching

The University of Chicago Law School has always been a haven for great scholars. This is as true today as ever. Indeed, as every recent study confirms, the University of Chicago law faculty is by a wide margin the most scholarly law faculty in the nation. I want to emphasize, however, that the Law School is, at its core, an educational as well as a scholarly institution. Our mission is to educate future lawyers, government officials, investment bankers, judges, scholars, real estate developers, and the like. To meet our responsibilities as teachers, we have several goals.

First, we try to make our students comfortable with uncertainty. Most students enter law school with little experience with certainty. But uncertainty is all that a lawyer, or at least a good lawyer, ever confronts—there are uncertain facts, uncertain precedents, uncertain jurors, uncertain judges, and uncertain law. By the time our students leave the Law School, uncertainty should be as comfortable to them as air. There are no answers because there are no answers.

Second, we try to provide our students with a broad knowledge of the general concepts, principles and doctrines that make up the law across a wide range of subjects—contracts, evidence, corporations, taxation, labor, commercial law, securities, insurance, bankruptcy, constitutional law, torts, property, jurisdiction, family law, copyrights, procedure, administrative law, decedents' estates, banking, etc. The list is staggering. Of course, we do not aspire to make our students experts in each of these areas. But we do hope to make them at least literate in as many fields as possible, for such literacy is essential if they are to function intelligently within the profession and if they are to recognize subtle but often serious problems before it is too late to do anything constructive about them.

Third, we strive to teach our students to "think like lawyers." This rather mysterious notion consists of a complex mix of rigorous objectivity, precise articulation, sound judgment, sensitivity to precedent, insight, intuition, imagination, and a host of other subtle and not so subtle attributes. However difficult it may be to define "thinking like a lawyer," you know it when you see it and, perhaps even more important, you know it when you don't.

Fourth, we seek to steep our students in the culture of the law. To be an effective and thoughtful lawyer, one must understand the forces and ideas that influence legal thought, judgment, and culture. This includes at least a passing familiarity with such disciplines as economics, legal history, jurisprudence, accounting, political theory, statistics and the like.

Finally, we try to introduce our students to the more technical skills they eventually must possess as members of the profession. Lawyers must know how to write. Through the Bigelow Program, the Moot Court Program, the student-edited journals, and a newly-instituted writing requirement for second and third-year students, we try to inculcate in our students a concern for clarity, precision, organization, and style. Moreover, through our trial practice courses and the Mandel Legal Aid Clinic, we try to introduce our students to some of realities of law practice. Though we make no pretense of preparing our students to engage in full-scale representation of clients upon graduation, we do hope to lay a foundation for the education in these sorts of skills that should continue throughout their professional careers.

These, then, are our goals. They are ambitious. To attain these goals demands a serious effort by students and faculty alike. As I noted at the outset, the University of Chicago Law School has been blessed with a long line of distinguished scholars. We have also had more than our fair share of exciting, challenging, and even brilliant teachers.

Over the last decade, with a heightened commitment to offer the strongest educational experience possible, we have paid special attention to the teaching component of our mission. We have attempted to improve our teaching in two ways.

First, we have reduced the size of our classes. Experience teaches that, all else being equal, smaller classes promote interaction, stimulate participation, heighten intensity, and enhance the educational experience. I am pleased to report that this year, for the first time in the Law School's history, every first-year course, and virtually every large upper-division course, will be taught in two or more sections.

Second, we have strengthened our teaching through the appointments process. All entry-level candidates for appointment must present a sixty-five minute seminar to the entire faculty, during which the faculty subjects the
candidate to a rigorous cross-fire of questioning. This ordeal is an excellent crucible in which to test one’s teaching potential. Over the last decade, we have consistently refused to appoint any entry-level candidate, no matter how talented otherwise, who failed to demonstrate a genuine aptitude for teaching. We also hire faculty laterally, that is, from other law schools. As part of this process, we now insist that any prospective lateral appointment spend at least a quarter, and preferably a full year, as a Visiting Professor at the Law School. This requirement has stood us in good stead, for we have frequently declined to hire Visiting Professors, qualified in terms of scholarship, who have proved to be disappointing teachers at the Law School.

The net effect of all this is that we now have perhaps the finest teaching faculty in the nation. This is not mere puffery. In course evaluations of courses taught by regular members of the faculty in the last two years, the students have rated 90 percent of the courses as either excellent or good and 100 percent as satisfactory. Similarly, in a recent survey of the entire student body conducted by the Law Students Association, 81 percent of the students rated the overall quality of instruction at the Law School as excellent or good and 97 percent as satisfactory. I doubt many other law schools can match those evaluations. We are proud of these achievements, for they have maintained and perhaps even strengthened the Law School’s long-standing leadership role in the field of legal education.

If you have any ideas or suggestions to make about the Law School’s curriculum, please let us know.

**LAW SCHOOL COURSES AND SEMINARS 1988-89**

### First Year

- Civil Procedure (Bator, Resnik, Stone, Wood)
- Contracts (Baird, Becker, West)
- Criminal Law (Alschuler, Morris, Schulhofer)
- Elements of the Law (Strauss, Sunstein)
- Legal Research & Writing (Bigelow Fellows)
- Property (Currie, Helmholtz)
- Torts (Epstein, Sykes)
- Plus one elective from second- and third-year courses and seminars, marked with an asterisk below.

### Second and Third Year

**Courses**

- Accounting (Weil)
- Administrative Law (Bator, Strauss)
- Admiralty (Lucas)
- Advanced Civil Procedure: Appellate Procedure (Lucas)
- Advanced Corporations (Fischel & Schipper)
- American Constitutional History (Casper)
- American Law & the Rhetoric of Race (Hutchinson) *
- Antitrust Law (Wood)
- Business Planning (Hess & Sheffield)

**Seminar Courses**

- Commercial Law: Commercial Paper and the Sale of Goods (Baird)
- Commercial Law: Secured Transactions (Baird)
- Conflict of Laws (Kramer)
- Constitutional Law I: Judicial review, Federalism and Separation of Powers (Casper, McConnell)
- Constitutional Law I: First Amendment (Strauss)
- Constitutional Law III: Equal Protection and Substantive Due Process (Sunstein)
- Copyright, Trademarks & Unfair Competition (Landes)
- Corporate Income Taxation (Isenbergh)
- Corporate Readjustments and Reorganizations (Blum)
- Corporation Law (Isenbergh, Miller)
- Criminal Procedure I: Investigation (Alschuler, Schulhofer)
- Criminal Procedure II: Adjudication (Alschuler)
- Development of Legal Institutions (Langbein) *
- Economic Analysis of Law (Landes) *
- Employment Discrimination (Holzhauer)
- Environmental Law (Sunstein)
- Estate Planning (Kanter)
- Evidence (Kramer, Shaviro)
- Family Law (Becker)
- Federal Criminal Law (Morris)
- Federal Jurisdiction (Bator)
- Federal Regulation of Securities (Easterbrook, Rosenfield)
- Feminist Legal Theory (West) *
- Insurance Law (Kimball)
- International Law (Gottlieb) *
- International Taxation (Isenbergh)
- International Trade Regulation (Wood)
- Jurisprudence (Posner) *
- Labor Law (Horowitz)
- Land Development (Shaviro)
- Lawyer as Negotiator (Gottlieb)
- Legal Developments in Germany since 1900 (Nörr)
- Legal Profession (Curtis, Miller)
- Legislative Process (Casper) *
- Litigation Methods (Palm & Clinic)
- Mining Law (Helmholz)
- Modern Welfare State in a Comparative Perspective (Mattsson)
- Pension and Employee Benefit Law (Langbein)
- Regulated Industries (McConnell)
- Religion and the First Amendment (McConnell)
- Remedies (Jones)
- State and Local Taxation (Lucas)
- Statistics and the Law (Meier)
- Taxation of Individual Income (Blum, Shaviro)
- Trusts and Estates: Family Wealth Transmission (Langbein)

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* Geoffrey R. Stone
  Harry Kalven, Jr. Professor of Law
  Dean of the Law School
Seminars

Advanced Antitrust: Special Topics in Mergers and Acquisitions (Rosenfield)
Advanced Civil Procedure: Complex Litigation (Jentes)
American Constitutional History: Division of Powers: Federalism and Checks and Balances (Kurland)
American Constitutional History: Individual Rights (Kurland)
American Constitutional History: Republican Government (Kurland)
Blackstone's Commentaries (Jones)
Comparative Law, Politics and Policy: Ethnic Group Relations (Horowitz)
Constitution of West Germany (Currie)
Constitutional Decisionmaking (Stone)
Constitutional Issues of the Civil War Period (Kramer)
Contemporary Legal Theory (Alschuler) *
Coordination of Federal Regulatory Policies (Casper & Karl)

Criminal Justice System (Morris)
Current Controversies in Corporate & Securities Law (Herzel)
Economic and Legal Organization Workshop (G. Becker, Landes, Pashigian, Peltzman & Stigler)
Federal Income Taxation of Mergers and Acquisitions (Thompson)
Feminist Theory (Becker)
History of Bankruptcy (Baird)
History of the Canon Law (Helmholz)
Introduction to Tax Policy (Isenbergh)
Judicial Process (Easterbrook)
Juvenile Justice (Rosenheim & Schulhofer)
Labor Negotiation and Arbitration (Holzhauer)
Law concerning American Indians (Lucas)
Law and Economics Workshop (Fischel & Landes)
Law and Literature (West)
Legal Problems of the Mentally Ill (Heyrman & Morris)
Major Civil Litigation (Holderman)
Making of the Constitution (Holmes)

Partnership Taxation (Shaviro)
Patents and Trade Secrets (Friedman, Landes & Posner)
Price Theory (Friedman)
Problem of Judgment: Aspirations for Judges and Jurors (Resnik)
Problems of International Law: The Arab-Israel Conflict (Gottlieb)
Protectionism in U.S. Trade Policy (Sykes)
Real Estate Transactions (Banoff)
Regulation: What Works and What Doesn't (Sunstein) *
Research in English Legal History (Langbein)
Section 1983 Civil Rights Litigation (Palm)
Selected Problems in Health Law (Epstein) *
Structuring Venture Capital and Entrepreneurial Transactions (Levin)
Supreme Court (Strauss)
Theory of Procedure (Wood)
Trial Advocacy (Howlett & Wolfson)
Trial in American Life (Ferguson)
Voting Rights and the Law of Elections (McConnell)
Women and the Law (Becker)
Lagos, Tuesday, Sept. 15. The airport is cramped and steamy. Crowds of people are milling, queuing, waiting interminably at the innumerable bureaucratic checkpoints—passport control, baggage pickup, customs, currency control, currency exchange. The Embassy provides "airport expediters" who husband you through; they are indispensable.

They call the Vehicle by walkietalkie, and it comes: a big Chevrolet van whose windows don’t open. Like many Embassy vehicles, it’s armored. In addition to their more obvious advantages, armored cars hold up better in collisions; notwithstanding a high infant mortality rate and rampant tropical diseases, traffic accidents are the leading cause of death in Nigeria.

How am I to talk about freedom in a country run by soldiers? Not to worry, they tell me; everyone here is free. General Babangida has promised a return to civilian rule in 1992, and people think he means it. The burning question is why democracy did not work here the first two times it was tried.

This, I suppose, is where I come in. Day after tomorrow is the two-hundredth anniversary of the signing of our Constitution. I’m to talk about “The Role of the Supreme Court in Strengthening Individual Liberties.”

It will do little good to describe the relevant provisions of the document itself; most of them are duplicated in the Nigerian Constitution that failed. Why does it work in the United States? I have a day and a half to figure that out.

Wednesday, Sept. 16. The Vehicle picked me up at 0900 hours, as it says in the itinerary, for “Briefings at USIS with ACGO/P, CAO, DPAO, and CPAO.” USIS is my sponsor, the United States Information Service. CAO is the Cultural Affairs Officer, PAO the Public Affairs Officer; “A” means Assistant, “D” Deputy. I myself am an AmPart—an American Participant, a professor brought in to talk to Nigerians about the United States.

Nigeria is larger than Texas and thought to have somewhere in the neighborhood of a hundred million people. Nobody knows exactly how many, because the last census was in 1963 and widely believed fraudulent; both representation (when there is any) and the allocation of federal oil revenues (which have slumped badly) depend on population.

There are three major tribal cultures in Nigeria: Hausa, Ibo, and Yoruba. Most numerous and most traditional are the Hausa, who live in the north and have practiced Islam ever since Arab traders first crossed the Sahara a thousand years ago. The
Hausa controlled the central government from independence in 1960 until General Ironsi's 1966 revolt. A counter-coup prompted secession of the Ibo southeast (you remember Biafra) and a nasty civil war. General Gowon engineered a remarkable reconciliation, and Murtala Mohammed gave the federation a new Constitution. General Buhari overthrew the Shagari government after widespread charges of corruption and election fraud in 1984. Next week a Constitutional Review Committee meets to consider constitutional amendments; my visit is timely.

**Thursday, Sept. 17.** This was the big day. After going with Ambassador Lyman to help present a collection of books about the Constitution to Chief Justice Bello at the Supreme Court, I was taken to the Nigerian Institute of Advanced Legal Studies at the University of Lagos for my principal lecture. I began by emphasizing that the Bill of Rights was not the only part of the Constitution that protected individual liberty; structural principles like democracy, federalism, separation of powers, and checks and balances also served that important function. I invoked John Marshall's insight that constitutional limitations are worthless without judges to enforce them, gave a few examples of how the courts had actually defended our freedoms, and finished up—you guessed it—with Learned Hand's warning that even judicial review won't help unless liberty lives in the hearts of the people. This brought us back to Nigeria's question: How do you instill the necessary respect for the Constitution?

**Friday, Sept. 18.** There was only one event scheduled for today, a panel discussion at USIS on "Individual Rights vs. Community Rights." Many people in this part of the world, I was told, think we overemphasize the individual to the detriment of the community. Given ten minutes, I take twenty; so do the others. We favor the individual so much, I said, that we usually speak of community interests rather than community rights; we even had trouble with seat-belt laws. However, we've come a long way; even we tax the individual to keep his neighbor from starving. Nobody put up the anticipated fight; Nigeria is a pretty individualistic place.

Claudia took me to the museum. Claudia is the CAO, Claudia Anyaso. Claudia knows everything and everybody. We admired the ancient brass and terra cotta figures, bargained over thorn carvings in the craft shop, dined on suya and pounded yams. No, they're not like our sweet potatoes. They take a potato-like dough and make it into a snowball; you pull off pieces and dip them in your soup.

The Nigerian Council of Women's Societies was meeting in Lagos, and Claudia was to present them with a nicely bound copy of our Constitution. Would I like to go along? Yes indeed. Would I like to make the presentation? I sure would. My wife, I said, has been fighting for women's rights in the Illinois legislature. Things are getting better; the Equal Rights Amendment is just a matter of time. These women are part of the answer, aren't they?—organized, concerned citizens working for human rights.

**Saturday, Sept. 19.** "Free day," says the itinerary. I had breakfast with the Deputy Chief of Mission and went off with Claudia to see Lagos. The Iraqi tanker sits in a field of water hyacinths that choke the harbor. The banana-shaped dugouts of the fisher-folk pass under the concrete expressway. Along the marshy shore are clusters of corrugated shacks—squatters from Benin and beyond, ethnic relations from beyond the border. The worst of it, says Claudia, is that for this they pay rent. The public housing structures across the bridge are unfinished; the coup caught them without their windows.

We stop in to see the King. Nigeria is a republic when the Constitution is in force, but it has traditional chiefs. Claudia knows the Oba of Lagos; Claudia knows everybody. The palace has seen better days; the Oba's position is ceremonial and his subsidy meager. There are stories of chiefs meddling in politics; their role in the next Republic is disputed.

A few blocks from the traditional Jankara Market is a shiny bank that would be at home in Chicago. Nearby, in a hundred year-old mansion with tile mosaics and iron grillwork, lives Claudia's friend Angelica, whose great-grandfather bought his freedom in Brazil and returned to settle on a tract of land granted by Queen Victoria. Soares and Da Concha are notable names in Nigeria; the Brazilians have maintained their identity and prospered.

Claudia's friend doesn't think she'll vote, prefers to work through organizations such as the Red Cross. The politicians have not created a sense of
confidence. Self-government requires practice, doesn't it? As Thurgood Marshall keeps reminding us, the Constitution we're celebrating permitted slavery. If you don't vote, the paper said, you can't complain. But civic service is part of the answer too, isn't it?

The monuments of fine Italian marble in the little cemetery remind me again of New Orleans. There are statues with black faces and white wigs, life stories inscribed on the base. James Churchhill Vaughan left South Carolina "because of the oppressive laws then in force against the colored man," became a successful businessman in Nigeria. His great-great granddaughter is educator, nurse, author, and feminist. Like her Brazilian cousin, she's kept track of relatives in the Western Hemisphere; Ebony did a spread ten years ago about Ayo and her cousin Jewel Lafontant (J.D. 1946), our Deputy Solicitor General.

Claudia's daughter Patricia, who is in the fifth grade, is running for Vice-President. What do Nigeria and the United States have in common, Madame Vice-President? A common language that makes it possible for you to speak to children who grew up half a world away from Baltimore. A common legacy of dissatisfaction, ladies and gentlemen, with a colonial system that systematically denied to those of us abroad those liberties so jealously guarded at home; your country, like mine, was created in order that the people could determine their own destiny.

"Tomorrow is travel day. See you in Liberia.

Monrovia, Monday, Sept. 21. Patricia spent the afternoon and evening at the airport. She brought apples and cheese and reading matter and sat in the air-conditioned car; she's dealt with Nigeria Airways before. This Patricia is Patricia Garon, the CAO in Liberia; you remember what a CAO is.

It's forty-one miles to Monrovia. Amos drives us at refreshing speed through open country on an excellent two-lane highway built with American money in 1968. We have treaty rights to use the airport, a fancy navigational system, a Voice of America transmitter that stops broadcasting at seven in the morning (Dear Senator Simon...).

My goodness, that was a hill, and downtown is down right rolling, with breathtaking views of the sea; it looks like the Caribbean. The best panorama is from the once and future luxury hotel atop the tallest rise, in sad disrepair since the government took over its operation. A stone's throw away is the ravaged shell of the once proud Masonic Temple, symbol of the True Whig aristocracy—the American-Liberian minority that dominated the country economically and politically until toppled in 1980 by Master Sergeant Samuel Kanyon Doe. It was pretty bloody here for a while. President Tolbert and a number of others were unceremoniously shot; the University was sacked and its entire faculty discharged. Many members of the thirty-three principal families fled to "the States," taking with them much of the country's human as well as liquid capital.

The freed slaves settled here by the American Colonization Society in the 1820s numbered no more than 3,000, and their descendants were never more than 5 percent of the population. Nevertheless (Silver Lining Department) their involuntary apprenticeship coupled with outside support gave them certain advantages over the indigenous population. It seems generally agreed that there was more true corruption than true democracy under the True Whigs, but one doesn't hear much talk of improvement under their successors.

A new Constitution was promulgated in 1985, and there were elections. After promising not to run, Sergeant Doe changed his mind and won the count—not everyone is convinced he won the election. Our government's position was that the tallying process was "flawed" by the decision to appoint a "representative" commission to count the ballots in secret. True Whigs in the States pilloried the Reagan Administration for not going further; the issues are familiar to anyone who has followed the debate over sanctions against South Africa. The government generally supports us in the U.N. and thinks us ungrateful; being a superpower is not always fun.

As in Nigeria, there is a noisy private press. Papers have been banned and unbanned; the press provision of the Constitution contains a derogation clause susceptible of broad interpretation. The great flap of the moment grew out of a speech by opposition leader Baccus Matthews suggesting in what seemed conciliatory terms that any effort to unsettle the current regime would only delay the next democratic election. One of the newspapers chose to print this talk under the headline "Baccus warns of coup," and Congress was called into special session to ban both him and his party. The morning papers suggested that the measure had been sent to the President for his signature. Later in the day several legislators were reported to have denied that any ban had been enacted, and the President left town without revealing what had become of his proposal.

In the evening Ambassador Bishop presented a set of lawbooks to the Supreme Court, the Bar Association, and the Law School. I said something about the Federalist Papers; I forget why. The Ambassador said what's important is that we think the process matters more than any particular result; I think he hit the nail on the head.
Tuesday, Sept. 22. Monrovia looks much less foreign than Lagos. The streets are reassuringly straight and broad though sadly pockmarked; sidewalks are common; I saw no open sewers. Traffic seems less congested and less hectic here. The cars are the same: Peugeot, Toyota, Volkswagen, Honda—we don't seem to be winning this one anywhere. Dress is predominantly Western; one might almost be in an impoverished Mississippi town of the 1940s.

There's no oil here, but there's rubber. Firestone has a huge plantation and processing plant on the way to the airport. There's some iron ore and timber too; both are in foreign hands and in the doldrums. Economics was apparently not the strong suit of the People's Redemption Council; the government has recently been persuaded to accept the services of seventeen foreign experts in order, as the New York Times put it, to run the economy.

After spending the morning adapting the first half of my Nigerian speech on individual liberties and the courts for tonight's lecture, I went to the imposing Capitol to speak with members of the House and Senate Judiciary Committees about the importance of an aggressive and independent legislature. Honorable Philip Deah, Chairman of the House committee, told us his daughter was studying at Chicago State and went off to round up his colleagues. Having heard that Supreme Court Justices were paid the princely sum of $630 a month, I thought this a good occasion to make a play for adequate judicial salaries as a means of attracting qualified personnel and reducing temptation. We have little influence in the legislature, they complained. Take your case to the people, I suggested, that they may judge. Never forget our Senate's insistence on deliberating without President Washington, or Justice Jackson's warning that legislators can preserve their prerogatives only by exercising them.

I had lunch with Baccus Matthews. He didn't seem at all abashed. He did think it would be more convenient if people knew whether or not they had been banned. No friend of the True Whigs, he spoke matter-of-factly of the soldiers who used to round up voters at gunpoint and ask them for whom they were voting. You hear conflicting stories about the True Whigs. Some contend that the People's Redemption Council systematically deprived this struggling nation of the few individuals with the skills needed to keep it out of the Stone Age; others allude to rigged elections and dark doings in the basement of the Masonic Temple. Mr. Matthews was in prison when the coup fell, charged with instigating the rice riots that had brought the country to the brink of chaos. After serving as a minister, Mr. Matthews broke with the Doe government to form the United People's Party, which had been banned and unbanned at least once before the present excitement. Unlike other opposition leaders, he has consistently preached cooperation with the existing regime; it is better to face reality, he believes, than to refight lost battles. There are those who suggest he went further in this direction than was absolutely necessary in accepting a shiny new automobile from the President.

Opposition, says Mr. Matthews, is a difficult concept in this country; the nearest equivalent of our word "opponent" in any African language is "enemy." Not long ago the UPP sponsored a citizens' meeting to discuss political and social issues. Such gatherings had been held in the past only as preludes to attempts to overthrow the government; the aim was to accustom the country to the exercise of the constitutional right of assembly. The UPP also threatened to seek a court order requiring the government to remove a notorious assortment of mentally ill individuals from the streets of Monrovia. The suit was never brought, its protagonists professing satisfaction with responsive though as yet fruitless efforts to remedy the problem; their main purpose had been to set a precedent for invoking the constitutional right to petition for redress of grievances. Mr. Matthews surmises that such incidents as these may have had something to do with the effort to ban the United People's Party. He doubted he would challenge the ban if it was promulgated, but nobody expects Baccus Matthews to retire from public view.

Wednesday, Sept. 23. Next to the Capitol stands a shabby, discolored six-story concrete building reminiscent of those monuments to misguided housing policy that line the expressways in Chicago. This, I am sorry to say, is the Temple of Justice, seat of the Supreme Court of Liberia. We toiled up five flights of circular stairs; the elevators were not working. There were appreciable gaps in the faded green carpeting of the uncooled library, where ambitious collections of American statutes, decisions, and journals conspicuously tailed off after 1962. With proper pride Justice Robert Azango showed us the first volume of the Liberian
Reports, embracing decisions rendered by his tribunal between 1861 and 1907. The latest edition of the Liberian Code on the shelves dates from some time in the '60s; Justice Azango assured us he had his own copies of subsequent legislation. The decrees of the late military government are not easy to find; they have never been systematically collected, and apparently some were never published. Many of those decrees, not surprisingly, are believed to be inconsistent with the new Constitution, which like its 1847 predecessor (drafted by Professor Simon Greenleaf of Harvard) is in most important respects reminiscent of our own. Some argue that these decrees became void automatically when the Constitution came into force, but the government refuses to say so; there is a suspicion it wishes to retain the daunting possibility of threatening to invoke them against those who oppose its course.

The courts too have been a subject of controversy. Not long ago President Doe requested the resignation of all members of the Supreme Court and got them. The normally tractable Senate initially voted down by secret ballot more than one of his subsequent nominees, including an attorney called Chea Cheapoo. Thereupon the President decided to substitute Mr. Cheapoo for his original nominee for Chief Justice, who had already been confirmed. (Was that legal?, I was asked this evening. Time to get out that ten-foot pole. I'm not an expert on your Constitution; you might get some food for thought out of Marbury v. Madison ...). This time, though the Senators were required to stand up and be counted, the vote was equally divided; the Vice-President's casting vote was needed to put him over the hump. (Is the Vice-President's legislative role consistent with the separation of powers? Get out that pole again.) Chief Justice Cheapoo promptly raised a ruckus by touring the country to dismiss allegedly incompetent or corrupt judges, which some contend he had no power to do. He was out of town today, and no one seemed to know anything about our appointment. Further efforts turned up a judge who offered to get the troops together at eleven; the speech had been scheduled for ten.

Judicial review by independent judges, I tell them, is essential to the enforcement of constitutional freedoms in a democracy. What can the courts do, they ask, to promote respect for their decisions? Get their own house in order, avoid any appearance of impropriety, explain decisions in terms that convince the loser he's had a fair hearing. What can a judge do in the face of a recalcitrant government with superior physical power? Think of Chief Justice Taney, who lost the battle but won the war by calling on the President to support the orders of the courts; think of the Nigerian judges who, unwilling to pull down the temple by invalidating a decree limiting their jurisdiction, construed it as narrowly as possible.

Having spoken to legislators and judges about their roles in making the Constitution work, I was now to talk to the Fulbright alumni about the responsibility of the citizen. What does a law professor know about that? Well, I do know something about that, and maybe we're finally getting down to fundamentals. In a nation of sheep, Baccus Matthews had said, there will always be a shepherd. It was ordinary citizens who tossed that tea into Boston Harbor (was that too inflammatory?), who argued so forcefully in the Federalist Papers for the new Constitution, who voted in popular conventions for its adoption. It was ordinary citizens who joined together to educate, plead, lobby, and litigate with such success in organizations like the ACLU, the NAACP, and the Sierra Club. I tell them about Project Leap, which helped to sanitize elections in that developing country we call Chicago, about the dramatic effects of citizen pressure for environmental protection in the 1970s, about the mechanics of running, checking, and passing in a grass-roots campaign for the Illinois General Assembly. Don't expect Nirvana tomorrow; enforcing our Fifteenth Amendment took a hundred years. You say it was easy for us, our people could do all this without fear? Think of Medgar Evers and Martin
Luther King. Remember the power of the word: I have a dream....

My grandfather and my uncle were Presbyterian preachers. I think they would have been pleased.

Thursday, Sept. 24. After an unexpected television appearance in which I said what you would expect, I lunched with Deputy Justice Minister Eugene Cooper, who proved to be well versed in such subtleties as the distinctions among aidsers, abettors, and accessories and the British law of extradition. The Minister was much exercised over our insistence on signing a formal lease for the use of a government building to house a new library that we are to help underwrite. You have the President's personal assurance, he complained, and you don't trust him. You know those sticklers in our financial office, said his host; their rules require something in writing. You know why you never have military coups? asked the Minister. Your troops are not concentrated around Washington.

I had two hours before tackling "The Constitution as a Political Instrument" for a general audience at USIS. The title had been foisted on me in June in connection with an appearance in Germany; the people in Monrovia thought they were making it easy for me. In Bonn I had taken the liberty of changing the subject. Tonight I described the Constitution as the result of a political process, the framework that channels our political energies, an instrument of orderly political change. I closed with the Vietnam Memorial as a symbol of the point Ambassador Bishop had made on my first evening, our emphasis on what unites rather than divides us. You know the Memorial: no editorializing, just thousands of names, our common tragedy. I was pleased to spot a large UPP button in the front row; it's not easy to intimidate expression.

Friday, Sept. 25. This morning I spoke at the police academy, taking as my text "We serve and protect," the motto of the Chicago police. Never forget you hold your awesome power as trustees for the people; if you abuse it you will be ashamed. The senior officers sat neatly in dark trousers and white dress shirts; there is no money to buy the cadets uniforms. The Commandant gave me an earful about the decision of our Congress not to provide financial support for foreign police; I told the Ambassador that sounded ham-handed and promised to speak to my Senator. There seems to be a general expectation that Uncle Sam will do things for you, and indeed there is need for our help; this is not a rich country.

My last engagement was lunch at a seaside hotel with Dan Brown, who does the news for the government TV. Other invitees not having materialized, I pocketed my predictable remarks about the responsibility of the press in a democracy and listened to tales of reporters finding smoldering ballots in the back country after the last election. Mr. Brown was properly proud of the press's role in bringing down ex-Foreign Minister Blamo in the recent procurement scandal and properly irate over efforts by the director of the state electric company to suppress an embarrassing story about malfunctioning traffic lights. Money is short in broadcasting too; Mr. Brown is his own editor, producer, and general man Friday.

It's sobering to visit countries like Nigeria and Liberia; it makes you think about things we tend to take for granted.

I was treated to an appropriate tropical deluge as Amos picked me up for the trek back to the airport; pedestrians were wading up to their knees. We passed the corrugated shacks, the piles of refuse in the streets, the women with prodigious loads on their heads, the Rooster Restaurant proclaiming its "sudden service," the John F. Kennedy Hospital where you bring your own bandages, the headquarters of the West African Contracting Organization, whose acronym is wryly pronounced "wacco." In the light it looks rather like Florida, flat and palm, till we turn away from the coast. The mountains appear in the distance; in a few hours I'll be back in Chicago.

This morning the Speaker of the House said Congress had never voted to ban Baccus Matthews or his party. I thought this sounded encouraging; maybe the President had decided to back off in view of the storm raised by his proposal. Dan Brown wasn't so sure. It's sobering to visit countries like Nigeria and Liberia; it makes you think about things we tend to take for granted. But I saw the light in the eyes of the lawyers, the students, the concerned citizens; I sensed a broad commitment to the values I had come to preach. How, they kept asking, can we make it work? I quoted Learned Hand on the spirit of liberty and Bloody Mary on the importance of dreams. I exhorted to education, to grass-roots organization, to legislative and judicial courage. I toasted the future of the rule of law in the Republic of Liberia. ■

Nigerian ceremonial dancers
Four Faces of Liberal Legal Thought

Mary E. Becker

Liberals—those on the "left" side of the political spectrum—tend to be critical of the existing social order, with its unequal distribution of wealth, economic security, medical care, political power, education, and employment. Liberals are interested in changing our legal and governmental structure to constitute a more just society. There are, however, a variety of approaches to social change. I will discuss four strands of contemporary legal thought on the left: traditional liberalism, republicanism, critical legal studies, and feminism.

Each of these approaches to social change offers a slightly different perspective or focus. Traditional liberals focus on the individual and the role the legal system should play in limiting majoritarian abuse and fostering individual autonomy; republicans focus on democratic self-government and the role the legal system should play in fostering collective self-determination and community; critical legal scholars focus on class interests, ideology, and biases within the legal system and the larger society; feminists focus on gender interests, ideology, and biases within the legal system and the larger society.

Traditional Liberalism and Constitutional Interpretation

For traditional liberals, a central function of the legal system is to protect autonomous individuals from the "tyranny of the majority." There is, of course, a tension between judicial invalidation of majoritarian legislation and the democratic process. Both traditional liberals and conservatives emphasize this tension, though they resolve it differently.

Conservatives maintain that it is relatively easy to resolve this tension because they believe that every clause of the Constitution has "some fixed, reasonably ascertainable meaning, which constrains both legislatures and judges." Judges therefore need not, and in a democracy should not, apply the Constitution by reference to their subjective preferences and values. For conservatives, the primary functions of judicial review are thus to protect the Constitution's "well-defined personal liberties" and to ensure that no branch of the federal government oversteps its specified and limited powers.

1Michael W. McConnell, Four Faces of Conservative Legal Thought, 34 U. Chi. L. School Record 12, 13 (Spring 1988).
Traditional liberals see the task of constitutional interpretation as more complex. Many clauses of the Constitution are vague and open-ended. This is especially true of the personal liberties protected in the Bill of Rights and the fourteenth amendment. For example, the first amendment provides that "Congress shall make no law... abridging the freedom of speech"; the fifth amendment provides that no person shall "be deprived of life, liberty, or property, without due process of law"; the fourteenth amendment provides that no state "shall abridge the privileges or immunities of citizens of the United States"; and the ninth amendment provides that "[t]he enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." The meaning of such clauses is hardly self-evident. The framers must have intended someone—presumably judges—to give concrete meaning to these provisions of the Constitution.

According to traditional liberals, the framers considered judicial review of democratically enacted legislation an essential check to protect minorities against majoritarian bias, panic, indifference, and hostility. The framers, in other words, were acutely aware of both the advantages and dangers of majority rule. Without some check, the majority would have unlimited power over minorities. Liberals believe that the framers intended judges, through judicial enforcement of the rights and liberties guaranteed by the Constitution, to guard aggressively against the dangers of majority rule.

Moreover, as emphasized by Geoffrey Stone and other liberal scholars, aggressive protection of fundamental rights is essential to preserve the line between the government and the governors. In a self-governing society, rights against the government, such as the privilege against compelled self-incrimination, the right to due process, and the freedoms of speech, religion, and assembly, help to preserve the citizen's sense of autonomy, dignity and integrity; they help to remind citizens that they—and not the "government"—are in charge. The private-public distinction is often used by liberals to explain this limit on governmental power: there is a private sphere beyond which government should not intrude on its citizens' activities.

The document in a manner consistent with its words and the intentions of its framers and also interpret it according to "some fixed, reasonably ascertainable meaning, which constrains both legislatures and judges." Conservatives err on the side of majority rule: unless a judge is confident beyond reasonable doubt that the framers meant to proscribe challenged legislation, the will of the majority should prevail. Liberals, on the other hand, err on the side of aggressive protection of fundamental rights: a judge should invalidate legislation when there are reasonable grounds to believe that the majority has impermissibly burdened a right guaranteed by the Constitution. Despite their differences, however, both liberals and traditional conservatives try to give effect to the language and (what they believe to be) the intentions of the framers of the Constitution.

One of the most important of the Constitution's open-ended provisions is the equal protection clause of the fourteenth amendment. Although this clause was enacted to end the subordination of ex-slaves, its language is not limited to racial discrimination: "No State shall... deny to any person within its jurisdiction the equal protection of the laws." Liberals interpret this clause in light of the need to protect minorities, especially discrete and

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\[\text{United States v. Carolene Products, 304 U.S. 144 (1938).}\]
insular minorities, from majoritarian abuse. Although blacks are the paradigm, liberals are willing to grant special protection under the equal protection clause to other, arguably analogous groups, such as aliens, illegitimate children, and women. Because such groups are unlikely to enjoy effective participation in the political process and have historically been subjected to discrimination, liberals maintain that laws directed at such groups should be suspect (or quasi-suspect) even when rational (i.e., even when based on a difference between the targeted group and the rest of society). The Supreme Court’s equal protection standard is consistent with this analysis.

Although liberals believe in a more aggressive judicial review than traditional conservatives, they share with traditional conservatives a hostility to judicial interference with democratically-enacted legislation on the basis of judges’ subjective judicial values or preferences. Both traditional conservatives and liberals believe that the Constitution can and should be interpreted in a value-neutral way.

As this suggests, pluralism plays an important role in traditional liberal thought. Liberals believe that the purpose of the democratic process is to give each individual the opportunity to use his or her political power to best advantage. The essence of political activity is thus to negotiate deals among competing groups acting in their own self interest. The anti-majoritarian restraints liberals espouse are designed to ensure that no interest group is unfairly handicapped by other interest groups in the give and take of interest group politics.

### Republicanism

In recent years, a number of legal scholars have turned to the origins of the Constitution in order to understand modern constitutional controversies. Many such scholars emphasize the roots of the Constitution in “republican” principles. In this view, the framers had a vision of democracy in which political actors deliberate about the public good rather than seek their own selfish ends. The framers did not conceive of democracy as interest group politics; political equality is necessary to ensure that all groups have access to this deliberative process.

Republicans value political participation by all citizens. In the republican view, something is seriously wrong if political participation is skewed according to race, class, or sex. Republicans regard active citizenship as important because it acts as a control on governmental abuse and because participation cultivates empathy and feelings of community, thereby facilitating deliberation in the political process.

Republicans believe deliberation yields political results different from those of a pluralistic process. A pluralistic process, in which each interest group fights for its own interest, yields results that reflect the current distribution of power. In contrast, a deliberative process, in which participants seek the common good, brings alternative perspectives and information to bear; it produces results that do not necessarily reflect the interests of the powerful.

Republicanism is also a response to libertarianism. Libertarians believe in pre-political natural rights to liberty and property with which government cannot legitimately interfere. Republicans reject such rights. They maintain that there is no such thing as a pre-political (i.e., pre-social) human being. Republicans emphasize that the current distribution of property is itself the product of prior political deliberations and thus properly the subject of continuing political deliberation. Although republicans believe in rights, they believe that there are no natural, pre-political rights—rights beyond the scope of legitimate political deliberation.

On a number of important issues, republicans take varying approaches. With respect to the purpose of deliberation about the common good, there are two major strands of republican thought. The Madisonian strand, represented today by scholars such as Cass Sunstein and Frank Michelman, values deliberation as a mechanism for making government less responsive to powerful groups, whether at the local, state, or national level. Another strand, represented by scholars such as Paul Brest and Gerald Frug, stresses the value of democracy and participation on the local level. For these republicans, like many conservatives, local control is an important component of the republican vision.

Similarly, though equality is an important concept within the republican tradition, republicans do not all agree on its content. Republicans, like traditional liberals, emphasize the importance of political equality to the democratic process; the process can work only if all individuals have equal access to the political sphere. Republicans differ from traditional liberals, however, in stressing that political equality requires more than universal...
adult suffrage. In their view, unimpeded universal adult suffrage is too thin and abstract a standard of political equality; it ignores problems faced unequally by different groups attempting to affect the political process. In addition, some republicans, such as Paul Brest, believe that equality must include economic as well political equality, for in this view economic equality is a necessary prerequisite to political equality. Less radical republicans do not include economic equality within their notion of equality. Although republicanism is not in itself a theory of constitutional interpretation, a belief that the framers intended to fashion a democratic republic influences one’s approach to several constitutional questions. For example, republicans consider campaign finance regulation constitutional since it furthers political equality. Similarly, republicans favor regulations banning private discrimination on the basis of race, sex, sexual preference, religion, etc., because such discrimination interferes with political equality. And republicans tend to applaud the fairness doctrine (requiring broadcasters to give airtime to opposing viewpoints) because it encourages consideration of many viewpoints and, thus, better deliberation. And, as suggested earlier, some republicans place a premium on local self government and are therefore more likely to invalidate expansive exercises of federal power.

Despite their many differences, republicans and traditional liberals both believe in rights. Indeed, both believe that rights, including constitutional rights, can and should be used to achieve a more just political and social order. This belief in rights is not, however, shared by all strands of liberal thought.

Critical Legal Studies

Critical legal scholars challenge the possibility of achieving meaningful change through legal rights. They argue that principled adjudication is impossible. There is, in their view, no such thing as distinctly legal reasoning; every case is in some sense ultimately indeterminate. Judges inevitably and necessarily decide cases on the basis of personal values and preferences. Legal discourse and doctrine thus cannot be separated from ideology.

Further, critical legal scholars such as Robert Unger and Mark Tushnet argue that legal doctrines (including legal rights) tend, perhaps inevitably, to serve and legitimate the interests of the powerful. Even the most cursory glance at history, they argue, reveals that the powerful have always controlled the content of law to protect their interests by preserving existing social, political, and economic relationships. Equally important, laws that preserve existing inequities seem naturally to the powerful and to those oppressed by existing inequities. Thus, law legitimates inequitable relationships. It covers them with a patina of legitimacy by creating the false impression that it is itself neutral and independent of existing power inequities. This patina of legitimacy encourages the powerless to accept the existing social, political, and economic order because of their false belief that it is founded on individual choice within a neutral legal structure.

Critical legal scholars criticize the traditional legal bifurcation of social reality into private and public spheres. Traditional liberals and conservatives tend to see democracy as appropriate only in the public sphere. But, critical legal scholars argue, governments are not the only important institutions in our society. The powerless lack, and need, the ability to participate in other important social and economic organizations. Yet traditional liberals and conservatives have created and persistently legitimize a system in which democracy refers only to limited participation in what the critical legal scholars see as an arbitrarily-defined “public” sphere.

Critical legal scholars reject the use of legal rights to alter the existing distribution of social, political, and economic power. As indicated above, they believe that all cases are indeterminate and that rights serve mainly to legitimate existing inequities. Most critical legal scholars thus advocate the development of more informal, communitarian forms of decision making; groups of equal individuals with common concerns should meet and reach consensus on matters of interest to their community. All hierarchies should be abolished. Factory workers should establish rules for their factory. Students should establish rules for their school. All rules should be entirely renegotiable, subject to constant reformation.

Many of the points made by critical legal scholars are squarely in the realist tradition. Both the realists and critical legal scholars maintain that there is no such thing as value-free legal reasoning; that legal rules are historically contingent; that the development of doctrine is not the true goal of legal decisionmaking. Critical legal scholars are, however, far more radical than the realists, for they are committed to the view that legal doctrines, legal “rights,” and legal reasoning are always manipulated to serve the interests of the powerful. And, unlike the realists, many critical legal scholars believe that rights should be repudiated as a viable instrument for achieving a more equitable distribution between social classes and groups.
Feminism

Feminist legal scholars are concerned about the status and well-being of women. Despite women's increased access to some areas of human activity in recent years, women continue to be disadvantaged in comparison to men in terms of income, financial security, leisure time, status, and power. Levels of violence against women remain disproportionately high.

Feminist legal scholars have been strongly influenced by feminist scholars in other fields. In discipline after discipline, feminists have identified sexist bias in a variety of subtle and not so-subtle forms. For example, in biology and sociology, researchers have tended to view the male as the norm or normal and the female as the exception or aberration. Linguistic analysis reveals semantic derogation of women. Consider the quite different connotations of bachelor and spinster, old man and old woman, master and mistress, sir and madam. Feminists argue that language, which has been largely man-made, has played an important role in structuring individuals to serve male interests.

In the behavioral sciences, feminists have developed firm empirical evidence of unconscious bias against women, a bias suggested by the differential connotations of language depending on the sex of the referent. Both women and men tend, unconsciously and inadvertently, to view women as inferior. For example, both women and men rate less important an article presented with a female author than the same article presented with a male author. Feminist psychoanalytic theory suggests that the origins of misogyny may be deeply ingrained, far beyond the reach of reason, and associated with ambivalence towards those who cared for us as infants.

It is against the background of feminist work in other disciplines detailing pervasive, yet invisible (to many) sexism, that feminist legal scholars approach law. Not surprisingly, their attitude is one of suspicion of legal rules and legal method, both of which, they argue, have been developed almost exclusively by and for men. Feminists are especially wary of the neutrality norm (a norm espoused not only by traditional liberals but also by many republicans and conservatives). Feminists suspect that rules made by and for men are likely to appear as "neutral" and that rules taking into account women's reality are likely to appear as "special pleading." Despite these reservations, feminists hope to use law to improve women's lives.

Feminist legal scholars are interested in a number of central questions. How do legal rules, doctrines, language, and analyses contribute to women's subordinate status or reflect sexist biases and assumptions? How are various actors in the legal system (police, prosecutors, judges, and lawyers) affected by the sex of victims, witnesses, parties, lawyers, and experts? Do legal processes or theories (including legal reasoning and the adversarial system) reflect men's perspectives, values, and thought processes more than women's? What changes in legal rules or in the practices of actors within the legal system would contribute to a more equal society?

In addressing these concerns, feminists offer a critical perspective on each of the bodies of liberal legal thought discussed thus far: traditional liberalism, republicanism, and critical legal studies. Feminists maintain that traditional liberals are largely blind or indifferent to the realities of sexual subordination and discrimination. Liberals, like John Hart Ely, think of the relationship between the sexes as essentially friendly given its closeness and intimacy. Feminists point out that the sexes' closeness is not inconsistent with deep misogyny on the part of both women and men. Indeed, feminist psychoanalytic theory suggests that the closeness of the sexes may actually reinforce misogyny.

Most feminist legal scholars believe that liberals have missed the boat on equality. First, liberals tend to see "the problem" as the inappropriate use of stereotypes of male-female differences. Feminists maintain, however, that the problem is not just that differences between the sexes have been used inappropriately. Women and men could be different in many ways and yet enjoy equal financial security, leisure, status, and power. The core problem is the differential distribution of these "goods" between the sexes. The liberal focus on whether some difference between the sexes justifies differential treatment ignores the reality of sexual subordination; differences between the sexes are systematically used to justify male privilege and female impoverishment, though the sexes could be different and equally well off. Despite the differences between domestic work and wage labor, for example, homemakers could be given financial security in old age equivalent to that enjoyed by wage workers.

Second, the equality standard used by liberals—formal equality or open access—gives women only the right to be treated like men, according to rules, standards, and practices developed by men and for men with no significant domestic responsibilities. Consider, for example, the workplace. Liberal "equality" entitles women only to be treated like men. But, feminists argue, women will never achieve economic equality in the workplace while saddled with the lion's share of domestic responsibilities (including child care) and faced with rules designed for men with wives.

Third, feminists contend that in the political arena, open access—e.g., the right to vote—means little in a world in which women and men are differentially socialized and educated, so that men are likely to control political life. Consider, for example, the fact that (despite the widely-accepted stereotype...
to the contrary) men in mixed-sex groups talk more than women and tend to interrupt women when women do talk. In such a setting, women's right to vote does not mean equal access to political power.

Finally, feminists are suspicious of the liberal notion that there are areas too "private" to warrant governmental intrusion. Liberals tend to define these areas in terms of sexual relations and the family. But feminists see these "private" spheres as areas in which men control women. Women are more likely than men to need government intervention in these areas. Privacy, feminists argue, is freedom for men, defining areas in which women (and children) can be subordinated without redress through government "interference."

Feminists also worry about the republican stress on deliberation to attain the common good rather than pursuit of self-interest. Iris Marion Young has noted that there is no such thing as a transcendent, disembodied perspective from which to regard the common good. Feminists fear that such a (false) conception of the political process may tend to entrench the status quo. Women are less likely than more powerful groups to have their interests included in the calculus of the common good. For this reason, women are more likely (than men) to have to push for policies that are explicitly in their self-interest. In the real political world, rejection of self-interest is likely to silence women and other groups whose interests are not shared by the politically powerful and whose requests for consideration can, with republican rhetoric, be denigrated and dismissed as narrow self-interest.

Further, feminists are concerned that women are likely to assert their interests too little in the political arena, rather than too much. Women (more than men) are socialized to put the needs of others, especially their children and spouses, ahead of their own. Women are still socialized (with obviously mixed results) to regard the domestic sphere as theirs and the political sphere as men's. As mentioned earlier, women tend to talk less than men in mixed-sex groupings and to be interrupted more by men than men are by women. Men tend to dominate women in just about every social and political setting. Feminists argue that republicans—like traditional liberals—tend to ignore these problems. The pursuit of the common good, if it is to be successful, must take affirmative steps to overcome the many nonobvious barriers women face to equal consideration of their interests in the process of deliberation.

Feminists agree with, and would expand upon, many of the key insights of the critical legal scholars. Law, they would argue, is an instrument men have designed and used to maintain power over women. Moreover, like critical legal scholars, feminists are suspicious of rights. Rights tend to be defined by the powerful to serve their own interests. Consider the traditional rights of a husband during marriage. Even today, rights and the rhetoric of rights are used (though more subtly than in the past) to oppress women. Consider first amendment rights, which feminists such as Catharine MacKinnon argue are misused to protect a multi-billion dollar business in pornography which damages women in untold ways.

Many feminist legal scholars are also suspicious of critical legal studies, however. Critical legal scholars would replace formal deliberation about rights with more informal decision-making processes. But in informal settings—such as the private sphere of the family—those with power are likely to prevail. In informal groups, the powerful control the discussion, define the issues, establish the range of acceptable discourse, and dictate the result. Women and minority groups have often done better with rights, despite their imperfections and shortcomings, than with informal decision-making.

In addition, critical legal scholars rarely offer practical ideas for improving women's lives short of radically transforming society by eliminating all hierarchy. Since radical transformation seems unlikely in the foreseeable future, critical legal scholars offer women a better understanding of their subordination, but no help in lessening it during their lives. On a practical level, the critical legal studies movement is profoundly conservative, tending to entrench the status quo by teaching the impossibility of social change other than through a vague (and possibly ineffective) radical transformation that will not take place in our lifetimes, if ever.
What is the feminist agenda for the future? During the seventies and early eighties, almost all feminists interested in legal change agreed on one important goal: a formal equality standard with strict scrutiny for sex-based classifications analogous to strict scrutiny for racial classifications under the equal protection clause. This goal was pursued both through litigation and through the drive for the ERA. During the eighties, the consensus for a formal equality-strict scrutiny standard has evaporated. Today, some feminist legal scholars continue to support the strict-scrutiny standard or to search for a new and better equality standard to replace it. Some feminists interested in legal change believe that equality cannot be achieved without changing sexuality, so that domination is no longer erotic. These feminists concentrate on the regulation of pornography. Most, probably all, feminist legal scholars call for legal change in a variety of forms and fora if we are to make significant changes in the relative distribution of power, physical and financial security, status, and leisure time between the sexes. Most feminists believe that the current diversity among legal feminist scholars is an advantage, for they recognize that there is no single solution to the myriad forms of sexual inequality in our society.

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Suggested further reading for this article and for Michael McConnell’s article on conservative legal thought in the Spring 1988 issue of the Law School Record.

**Traditional Conservatism**

**Libertarianism**

**Law and Economics**

**Social Conservatism**

**Traditional Liberalism and Constitutional Interpretation**
Bruce A. Ackerman, Social Justice in the Liberal State (1980).

**Republicanism**

**Critical Legal Studies**

**Feminism**
Law and Literature

Richard A. Posner

It is remarkable how many famous works of literature, from all eras, take law as their central theme. While there is relatively little in these works that will help judges directly with the solution of technical legal questions, they can help us to achieve perspective on fundamental jurisprudential issues that pervade our work whether we are aware of them or not. One thing all judges feel or should feel, for example, is a series of tensions between various senses of law as form and rule and technique on the one hand and various senses of law as the rendering of substantial justice on the other. I am referring to the tensions between rule and discretion, between law and justice, between positive law and natural law, between rule and standard, between law and equity, between strict construction and flexible construction, between formalism and realism, and so on. Judges lean toward one end of this spectrum or the other; my own view is that anyone who leans too far either way is a bad judge.

Literature can make us more sensitive to these tradeoffs. I begin with the ancient example of Antigone, Sophocles’ play written in the fifth century B.C. Two brothers, who happen to be the sons of Oedipus, though that is a detail, find themselves on the opposite sides of a civil war in the city state of Thebes, which is ruled by Creon. One of the brothers, Polynices, is the leader of the rebels. The other brother, Eteocles, is the leader of the loyalists. The loyalists win, but both brothers, the rebel and the defender, die in the fight. Creon decrees that Polynices, the rebel, shall remain unburied—a terrible punishment in the theology of the ancient Greeks—and he announces that anyone who violates this decree shall be put to death. The decree has the same authority as would a law passed by Congress today. Antigone, the sister of Eteocles and Polynices, defies the law and buries Polynices. Creon sentences her to death after a brief trial in which Antigone argues, to no avail, that a higher, religious law, which commands proper burial for the dead, should be allowed to trump Creon’s earth-bound positive law. Disaster ensues for Creon, including the death of both his son and his wife, and we are led to understand that he has made a terrible mistake.

And yet it is apparent that Creon has a real problem and that the dilemma of natural and positive law that proves insoluble by him remains to challenge modern legal systems. Because both brothers have been killed, and honorable burial for both would fail to distinguish the traitor from the heroic defender, the denial of honorable burial for Polynices is the only method by which Creon can punish the traitor and distinguish between the two brothers. It is a harsh punishment, but civil war is harsh, and must
be deterred. Against this practical and utilitarian argument based on civic values Antigone opposes an argument based on family, religion, and emotion; the discourse of the two antagonists is incommensurable, and no compromise is possible.

Much of positive law has the character of Creon’s decree, being rooted in practical, essentially political considerations. It is often open to criticism from a standpoint that asserts transcendent ethical values. Few judges would like to think of themselves merely as Creons, but equally few would feel comfortable in the role of Antigone. Most judges want on the one hand to enforce and comply with laws and doctrines of a humble utilitarian cast at best and on the other hand to render substantial justice unfettered by the petty political compromises and calculations that shape legislation.

Much the same dilemma is displayed in a later work of legal drama, Shakespeare’s The Merchant of Venice. As most readers will remember, Antonio gives Shylock a bond in guarantee of a loan by Shylock to Antonio’s friend, Bassanio, so that Bassanio can woo the wealthy Portia in style. The bond provides that in the event of a default Shylock shall be entitled to a pound of Antonio’s flesh. Antonio does default and Shylock demands judgment for the pound of flesh, making clear that he wants it taken from the region of Antonio’s heart, so that Antonio will die. The bond is clear on its face; and Venice, as a commercial society, attaches great importance to enforcing contracts—an attachment that Shylock plays on skillfully by asserting that if his bond is not enforced, it will mean there is no justice in Venice. In the law of the play, there is neither a rule that penalty clauses in contracts are unenforceable nor a concept of equity of redemption. So it looks as if Antonio is a gonner, even though Bassanio has come up with the money (it is Portia’s money) to repay Shylock and offers to do so—with a huge amount of interest to boot.

At this point in the trial scene Portia, who is by now Bassanio’s wife, appears, disguised as a male doctor of laws. She appeals to Shylock’s sense of mercy, but he has none, and so this appeal fails. Things are looking really black for Antonio until Portia pulls a pair of legal rabbits out of her hat. First, she points out that the bond nowhere authorizes Shylock to shed Antonio’s blood. Second, she reminds everyone that it is a capital offense to attempt to kill a Venetian, which Shylock has already attempted to do, so he will be lucky to get off with his life. Everyone is astonished at Portia’s sagacity. Shylock is defeated and withdraws, after surrendering most of his fortune and converting to Christianity, in order to be let off from being proscribed as a criminal.

Many readers have thought Portia’s argument about not shedding blood absurdly legalistic, and highly vulnerable to the counterargument (which Shylock does not make) that the bond should be interpreted to grant Shylock the implicit right to shed Antonio’s blood, since otherwise the purpose of the bond would be defeated. But it is no accident that Shylock does not make this argument—an argument based on purposive rather than literal construction. It would be open to a devastating counterthrust: the fundamental purpose of the bond is to ensure the repayment of Shylock’s loan—and there is Bassanio offering to repay it with abundant interest, even though the loan was interest-free. It is Shylock who rejects purposive interpretation and stands foursquare on technicality and literalism, and Portia who, personifying a higher law of equity and mercy, uses Shylock’s own commitment to technicalities to lever him out of court.

The use that Portia makes of the forms of law is significant not only in underscoring the difference between her and Shylock but also in demonstrating the practical importance of those forms. It would not do for Portia and the other Venetians simply to say that the bond is ridiculous and Shylock a villain, therefore the bond should be annulled. Venice depended on trade with aliens (such as Shylock—Jews could not be citizens in sixteenth-century Venice), and no alien would trust the Venetian courts if they took such an approach. A court that merely does “justice” can be expected to construct that protean term in a way that gives the locals a big advantage. An impersonal, objective, at times inflexible rule-bound jurisprudence is an essential protection precisely for the outsider, the pariah—a point made recently by minority legal scholars in criticism of the radicalism of critical legal studies. Shylock’s positivism, like Creon’s positivism, is not entirely devoid of social value.
In both of the examples I have given and others I could give, the spokesmen for rules and positivism and strict construction were men, and the spokesmen for equity and natural law were women. An interesting question is whether more than coincidence is involved. A number of feminist legal scholars, following Carol Gilligan’s pathbreaking book, *In a Different Voice*, argue “yes,” there is a difference between the way in which men and women perceive law and it is the difference captured by Sophocles and Shakespeare in their assignment of sex roles to their characters. Men, the argument goes, are drawn naturally to an ethics of rights and duties, both defined by rules, while women are drawn naturally to an ethics of care, in which disputes are not so much resolved as dissolved in an overriding concern for ending disputes on mutually acceptable terms. Now this picture does not fit the fanatical Antigone, unless we go further and suggest that impersonal, civic duties, the sort of thing stressed by Creon, are alien to the feminine outlook and carry no weight in comparison to family ties. For certainly Antigone puts family—her duty to her brother—far above state. But the details of the contrast do not concern me, rather the implication of this line of argument that as women come to play a larger and larger role in law the nature of legal thought itself will change, and we will see more standards, more flexibility, more equity, fewer dichotomous rules, fewer “hard” cases (in the original sense of harsh decisions), fewer well-defined rights and duties, less individualism and more altruism. Well, we shall see.

Let me switch gears and say a word about the interpretation of statutes and the Constitution, when examined from the standpoint of literary interpretation. Many literary works are severely ambiguous, creating interpretive problems of a kind that literary critics and scholars have been wrestling with for more than 2,500 years; perhaps there are helpful analogies here to the problems of legal interpretation of which we are so sharply conscious today. A number of legal scholars think so, a prominent example being Ronald Dworkin. Certainly, the radical scholars of the critical legal studies movement think so, and they have succeeded in making the word “deconstruction” a familiar sight in the law reviews.

Deconstruction is the furthest extreme of an approach to interpreting literary and philosophical texts that emphasizes the primacy of the reader over the author in the creation of meaning. Just as there are intentionalists with regard to statutory and constitutional interpretation, so there are intentionalists with regard to literary interpretation. At the opposite pole in the literary domain are those who believe that meaning is created by readers rather than authors. Deconstruction gives a peculiar twist to this “reader response” approach by denying the communicative nature of writing.

Think for a moment of how we imagine the process of communication operates. I see the tree outside my house, and a perception forms in my mind. If I want to recreate the same perception in your mind, I “encode” my perception in suitable words and utter them, and you construct your own perception from your understanding of my words. The communicative medium thus is language. The deconstructionist points out that it is an unruled medium. Most words we use have multiple meanings, and when they are strung into sentences all sorts of ambiguities may be created (as well as eliminated). Suppose we just were not interested in communication, but simply in the medium, in language. Then when you heard me describe the “tree” outside my house, your mind might wander off to reflections on shoe trees, family trees, decision trees, the Tree of Knowledge of Good and Evil, the Versailles treaty, the *Threepenny Opera*, and God knows what else. Deconstruction insists that it is only a convention to value language for its communicative potential, that we can value it for anything we want and therefore if we want to we can focus on its communication-retarding characteristics: its ambiguities, buried allusions, latent puns, and so forth. Deconstructionists note disapprovingly that we tend to think of writing on the model of speech—that is, as something that brings the reader into the presence of the writer—but claim that this is merely a metaphor. The writer is normally absent (often dead) and if we reversed the sequence and thought of speech on the model of writing, we would cease thinking of either speech or writing as primarily communicative.

What I have described intrigues some and revolts others, but the most important thing about it from my

*Macbeth and Lady Macbeth, by Charles Ricketts A.R.A., from a 1923 Folio reproduction*
standpoint is that, unlike some other aspects of the effort to relate law and literature, it really has nothing for the lawyer or judge. It is one thing to be skeptical about the possibility of decoding an old or ambiguous or broadly worded statutory or constitutional provision; it is another to decide to treat the provision as an exercise in retarding rather than promoting communication. I think the only reasons deconstruction has obtained currency in academic discussion of law are that it sounds like "destruction," it has shock value, and it is alien to lawyers.

There are indeed wonderful interpretive puzzles in literature, however, and some of them have parallels in law, but here is one that I contend does not, though Ronald Dworkin and others would disagree. For centuries people have been worrying about whether Macbeth and Lady Macbeth, in Shakespeare's play, had children. Although Lady Macbeth at one point refers to having nursed a child, there is no indication that she and her demonic husband have (living) children. Yet when the weird sisters tell Macbeth that Banquo's descendants will rule Scotland, Macbeth is fearfully upset and decides to kill Banquo and Banquo's (only) son. If Macbeth has no children, and therefore does not expect his descendants to rule in any event, why should he be upset about Banquo's posterity? He has nothing against Banquo, who is loyal to him, except the potential rivalry among their descendants. So Macbeth must have (or be planning to have) children. But one just cannot visualize the Macbeths either as parents or as a young couple planning a family. So they must not have children.

Is there any solution to this dilemma? I think not; and although there are certainly insoluble statutory and constitutional questions, I think they are insoluble in a different way. Often we do not have enough information to interpret a provision; with the question of the Macbeth progeny we have too much information. We have equally compelling reasons to believe both that Macbeth does have children and that he does not have children. What is more, though the result seems to be an intolerable contradiction, no normal reader or viewer of the play is troubled. Only scholars parse works of literature for contradiction. A normal audience is swept up in the drama and sets aside its normal expectations of consistency. Readers of statutes and the Constitution cannot do that.

But there is at least one type of literary interpretive problem that has a direct counterpart in law, and that is the deliberate gap. One of the earliest and most famous examples is Homer's omission in the Iliad of any description of Helen of Troy's appearance. Her beauty is conveyed to us obliquely by the poet's description of the reactions of the old men of Troy who watch her walking about the city. We are never told what she looks like. It would be quite absurd to try to draw a picture of Helen from the text, just as it was absurd for Vladimir Nabokov to draw a picture of the bug that the protagonist of Kafka's story The Metamorphosis turns into, when Kafka was careful not to describe it beyond noting that it had many legs and a fat awkward body. In both cases the author had reasons for leaving a character undescribed. Similarly, the draftsmen of legislative provisions frequently make a deliberate decision not to resolve an interpretive question raised by their drafting. Maybe they cannot agree, or just do not want to take the time to redraft the bill, or fear that in closing one gap they will open additional loopholes. If the gap is deliberate, a court may be no better able to fill it by interpretation than a literary critic can describe Helen or Gregor Samsa, and then the question is whether the court shall throw up its hands or decide the case on grounds necessarily not interpretive in a helpful sense.
Review of R.H. Coase
The Firm, the Market and the Law

William M. Landes

Economic analysis of law, which uses economics to analyze and explain legal doctrines, may well be the most important innovation in legal scholarship in the past fifty years. Ronald Coase is the economist most responsible for this innovation. His essay, “The Problem of Social Cost,” which first appeared in the Journal of Law & Economics nearly thirty years ago, is the single most influential paper in the brief history of law and economics. This paper together with Coase’s famous papers on the firm and marginal cost pricing are the core essays in The Firm, the Market and the Law. The volume also includes an introductory essay, a paper that responds to the criticisms made of the social cost paper, a paper on the provision of lighthouse services in England, and an article surveying the field of industrial organization in 1972 and proposing areas of research.

That “The Problem of Social Cost” became the principal building block for economic analysis of law is one of the ironies of legal scholarship. Coase did not intend it so. Coase had little interest in educating lawyers about economics (in contrast to his predecessor at the law school, Aaron Director) or in using economics to illuminate legal doctrines. Coase wrote for other economists. He hoped to persuade them to change the way they approached traditional subject matter areas of economics such as social cost, the firm and markets. Thus, the term “the Law” in the title of this volume does not refer to economic analysis of law. Rather, it refers to the study of how laws and legal institutions constrain and influence economic behavior and how the failure by economists to examine these constraints systematically leads to faulty policy conclusions. A good example is the lighthouse. Economists commonly use the lighthouse to illustrate the proposition that charging a fee for a service that has important public goods aspects (i.e., A’s use of the service does not prevent B from also using it) is incompatible with economic efficiency. Private provision would yield too small an output and so the service should be provided by the government and financed from general taxation. In the essay “The Lighthouse in Economics,” Coase points out that economists have reached this policy conclusion without ever studying the relevant legal constraints that governed the actual operation of lighthouses. Coase showed that lighthouse services in England were provided by private organizations, that tolls, which varied with the size of ships and the number of lighthouses passed, were collected from ships that docked at British ports, and that the system was better adapted to the needs of shipowners than a tax supported system would have been.

“The Problem of Social Cost” is best known for the Coase Theorem. Although Coase did not originate the term “The Coase Theorem,” he defines it in the essay “Notes on the Problem of Social Cost,” which was written for this volume, as “…with zero transaction costs, the value of production would be maximized.” A more familiar definition in law and economics is that the efficient allocation of resources is unaffected by the assignment of property rights or liability rules, provided transaction costs are zero. Suppose locomotives emit sparks that damage the farmer’s crops and the only way to reduce the amount of crop damage is by running fewer trains. If the railroad is liable for damage to the farmer’s crops, crop damage becomes a cost to the railroad, so it will run the number of trains that maximizes the joint value of the two enterprises. Prior to Coase, economists believed that in
the absence of liability, the railroad would run too many trains. Although the railroad's profits would be higher, the joint value of railroading and farming would be lower because of greater losses to the farmer. Coase showed that this view was wrong. In the absence of transaction costs, the farmer would offer to pay the railroad to reduce the number of trains. Negotiations would continue until the same number of trains were run as in the case of railroad liability for crop damage.

In the real world, transaction costs are not zero. It is costly to acquire information on the attributes of products to be exchanged, to bargain over the terms of exchange and to write and enforce contracts. Sometimes these costs are so large relative to the gains from exchange that no transaction takes place. Then the initial assignment of rights will be the final assignment. Positive transaction costs occupy a central place in Coase's article on social cost although economists have focused mainly on the Coase Theorem and the zero transaction cost world. In contrast, transaction costs play a central role in economic analysis of law in two ways.

1. When transaction costs are small, legal rules should encourage parties to engage in voluntary or market transactions. For example, if A desires to park his car in B's garage, B should be able to enjoin A's activity; this will encourage A to negotiate with B to rent his garage. If the negotiation succeeds, this means the garage is more valuable to A. If it fails, this means it is more valuable to B. Granting a property right to B yields the value-maximizing outcome and is preferable to a rule that allows A to park in B's garage but holds A liable for damages, because a market transaction is less costly than adjudicating the dispute in the legal system. To take another example, rules for breach of contract will promote efficiency if they reproduce what the parties would have agreed to had they considered the various contingencies at the time the contract was signed. It would be futile and wasteful of resources for contract law to impose a different solution; the parties will simply contract around the law and there will be fewer value maximizing transactions. Thus, contract law that follows the parties' intentions saves transaction costs and promotes economic efficiency.

2. When market transaction costs are prohibitive, liability rules play a crucial role in allocating damages and creating incentives for efficient behavior. This is the focus of economic analysis of tort law. Suppose it is too costly for the railroad and the farmer to transact because there are too many potential parties to deal with and there are serious free rider or hold-out problems. Or, in the case of automobile accidents, assume it is prohibitively costly for all drivers and pedestrians to agree in advance on levels of care. More generally, if A harms B and transaction costs are prohibitive, legal rules matter and liability rules are preferable to property rights. Liability rules allow "transactions" to take place, but shift them to the legal system because the cost of market transactions is prohibitive. Under a system of liability rules, the driver does not (and can't) negotiate with a pedestrian to acquire the right to run him down, but if the driver is negligent, he will be liable for the victim's injury. The efficient liability rule depends on the costs and benefits of accident prevention and the costs of using the legal system. For example, if the least costly way to avoid an accident is for the victim to alter his activity level, the efficient liability rule is one of no liability. This encourages the victim to alter its activity and saves the costs of using the legal system. On the other hand, if there are significant benefits when both parties take care, a negligence rule is likely to be more efficient.

The importance of the Coase Theorem to economic analysis of law is that it provides a framework for examining legal rules in the context of both low
and high transaction cost settings. The best way to explain legal rules in the former case is to view them as devices that shift transactions into the market and away from more costly legal proceedings or, in the case of disputes arising out of contracts, to economize on the costs of contracting. In the high transaction cost setting, the market is no longer a cost-justified alternative. In this setting, common law rules of liability are best explained as efforts by judges to fashion rules that promote efficient allocation of resources—i.e., to create incentives for outcomes that correspond roughly to that of a zero transaction cost world. The economic analyst does more than develop abstract models. He treats cases and legal doctrines as data to be explained by systematic application of economic analysis. The success of economic analysis of law lies in the fact that it appears to explain the “data” better than ad hoc explanations or competing theories.

Whether Coase was successful in altering the way economists think about traditional economic problems is debatable. Coase is not optimistic on this point. In his introductory essay, he states that “My point of view has not in general commanded assent, nor has my argument, for the most part, been understood.” Even a cursory glance at the leading economic journals will bear out the first half of this assertion. Economists study firms as abstract entities that transform inputs into outputs or engage in game theoretic strategies to impose costs on their rivals. Markets are analyzed as “shadowy figures” that facilitate exchanges. This is not the economic world that Coase inhabits. His consists of real firms where the cost of market transaction determine the boundaries between activities carried on within and outside the firm, and where markets require formal and informal rules that depend on the nature of the goods transacted to facilitate and expand the volume of exchanges.

I do not mean to suggest that Coase has not influenced economists. By one objective measure—the citations of one’s work in the work of others—Coase has had a spectacular influence. His articles on the firm, monopoly of durable goods (not included in this volume), and social cost are among the most widely cited articles in economics. What troubles Coase is that he has not influenced economists in the way he would have liked. For the most part, the articles citing Coase are indistinguishable from other articles in economics. These articles develop formal economic models and work out mathematical solutions to abstract problems but have little to say about the actual behavior of firms and markets.

William M. Landes

I am pleased to report that the 1987-88 Fund achieved its goal of $1,150,000. This represents a 15 percent increase from the 1986-1987 Fund and marks the second year in which $1,000,000 has been raised. Those results are all the more gratifying in view of the fact that several of the nation’s leading law schools failed to reach their annual fund goals in what was by all accounts a difficult year for fundraising.

Statistics, however, don’t tell the whole story. Without the imagination and effort of the Fund’s Leadership Committee, these impressive results could not have been achieved. The Law School and I, in particular, are indebted to Barry S. Alberts, Mary D. Allen, Deborah A. Cafaro, Frank Cicero, Jr., James A. Donohoe, Joseph N. DuCanto, Ruth Goldman, Lillian E. Kraemer, Frank D. Mayer, Jr., Kenneth C. Prince, and Donald S. Samuelson who served so effectively this year. I am also indebted to Dean Stone for his creative energies and to Dennis Barden, Director of Development, and Janet Kolkebeck, Assistant Director, for their imaginative assistance throughout the year.

I have enjoyed my two years as Chairman of the Fund. I believe that we have achieved all of our principal objectives and have laid the groundwork for others. However, without the generosity of you and other non-alumni friends of the Law School, these accomplishments would not have been possible and for that I thank you.

Donald E. Egan ’61

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You can find a Law School Trivia Quiz through the pages of the Honor Roll. Have fun testing your knowledge of the Law School and its history with these ten questions. Answers are on page 68.
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(a) 1948; (b) 1963; (c) 1973; (d) 1981.

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Estate of Paul E. Mathias '27
John F. McCarthy '32
*James J. McClure, Jr. '49
*Helen C. and Robert McDougall, Jr. '29
*Jerry A. McIlroy '70
Robert E. Mcllroy '64
*Patricia R. McMillen '83
Ethel McQuiston
Thomas A. McSweeney '65
Dean's Associates ($500-$999)

Anonymous (1)
William H. Abbott '28
Morris B. Abram '40
Adams Fox Adelstein & Rosen
*John F. Adams '77
#American Airlines, Inc.
#Gordon C. Atkinson '81
Mary L. Azcuena '73 and
Ronald G. Carr '73
Michael F. Baccas '73
James L. Baillie '67
#Gary H. Baker '73
Sheldon I. Banoff '74
Barry M. Barash '62
*Bonnie A. Barber '77
Paul M. Barnes '39
*Robert B. Barnett '71
Steve M. Barnett '66
Urs L. Baumgartner '79
Lowell H. Bennett '50
Joseph I. Bentley '68
*Robert M. Berger '66
*Kenneth J. Berman '79
Allan E. Biblin '62
David C. Bogart '72
Daniel I. Booker '71
*Robert H. Bork '53
William M. Brandt '41
Neil S. Braun '77
*Roger T. Brice '73
#James E. Brown '83 and
Gretchen A. Winter '83

Johnine J. Brown '77
John J. Buckley, Jr. '72
#Michael T. Buckley '81
#Philip T. '63 and Drusilla G.
Carter
Donald R. '76 and Sally A.
Cassling '76
Max L. Chill '35
Michael E. Chubrich '72 and
Donna P. Saunders '71
Deborah A. Claffin '83
*Robert C. Claus '57
#Marian and Ronald H. Coos
Langdon A. Collins '56
John A. Cook '47
*Rand L. Cook '73
Richard A. Cordray '86
Stephen C. Curley '69
L. Jorn Dakin '64
Holly C. Davis '76 and George
L. Kovac '76
#Kenneth C. Davis
Christopher C. De Muth '73
Samayla Deutch '64
Timothy W. Diggins '83
Aaron Director
John D. Donley '57
George T. Donohue, Jr. '38
Frank C. Dunbar III '64
Alderman Dystrup '31

Electronic V.I.P. Club
Lommen D. Eley '32
Richard R. Elledge '61
David W. Ellis '67
William R. Emery '37
Maurice S. Emmer '78
*Adam O. Emmerich '85
J. Eric Engstrom '69
Donald M. Ephraim '55
Warren P. Eustis '53
*C. Curtis Everett '57
John P. Falk '68
Terry Y. Feiertag '66
A. Daniel Feldman '55
#Burton E. Feldman
Laurie N. Feldman '84 and
Stephen G. Gilles '84
Richard L. Fenton '78
*Philip E. Fertik '81
#Sheron S. and Steven J. Fifer
'76
Sherman D. Fogel '65
Richard T. Franch '67
Ellen A. Fredel '79
Michael J. Freed '62
*Jeffrey Fried
Michael R. Friedman '71
Edward D. Friedman '37
Alvin Fross '51
#Scott D. '79 and Sherry W.
Gilbert '78

John V. Gilhooly '59
Lewis R. Ginsberg '56
Douglas H. Ginsburg '73
*Jerald H. Goldberg '73
*Edwin H. Goldberg '50
Ronald B. Grais '68
Robert W. Gray '65
Robert M. Green '57
Greenberger Krauss & Jacobs
Ernest Greenberger '47
John R. Grimes '55
William A. Halama '69
Willy G. Hallemesch '62
Joel L. Handelman '65
Thomas M. Haney '63
Donald M. Hawkins '47
Stephen L. Haynes '74
James H. '70 and Margaret
Hedden '70
*Walter Hellerstein '70
*Susan A. Henderson '69
David I. Herbst '64
#Joseph Herman
Stephen J. Herson '72

#Francesca Turner
Francis E. Vergata '70
Philip L. Verveer '69
Wachtell Lipton Rosen & Katz
Maurice Walk '21
Helen M. and Maurice S.
Weigel '35
#Gordon L. and Roberta M.
Welt
Neil S. Weiner '73
*Richard M. Weinroth '83
Robert L. Weiss '48
Ira T. Wender '48
*Donald M. Wessling '61
*The Whistler Foundation
#James S. Whitehead '74
*Edwin P. Wiley '52
John P. Wilkins '69
Voyle C. Wilson '66
Barry S. Wine '67
Carl E. Witschy '77
Helen E. Witt '82
Ann and Arnold R. Wolff
*Donald J. Yellon '48
*Mark C. Zaander '76
Morton H. Zalutsky '60
Michael W. Zavis '61
*Eva and Hans Zeisel
John E. Zimmerman '49
Joseph T. Zoline '35
William A. Zolla '65

# = Restricted gift
* = Restricted and
unrestricted gifts
† = Deceased
2. We all know it as The Pevsner. What is the correct title of the sculpture in the reflecting pool?
Century Associates ($100-$499)

Anonymous (4)
Mark N. Aaronson '69 and Marjorie E. Gelb '70
Joseph J. Abbell '34
David Abelman '85
Amy L. Abrams '82
Howard B. Abrams '66
Norman Abrams '55
Sidney P. Abramson '60
Peter Acharrman '60
David J. Achterberg '73
Fred M. Ackerson '80
Anita and Kenneth L. Adams '70
Neil H. Adelman '60
Barry E. Adler '85
Marion B. Adler '82
Thomas W. Albrecht '79
Joseph Alexander '73
Thomas R. Alexander '48
William H. Alexander '29
Harry T. Allan '56
David W. Allen '75
David M. Allen '72
Mary D. Allen '72
Thomas J. Allen '76
Alexander C. Allison '63
Paul J. Allison '51
Wayne A. Allwine '70
John J. Almond, Jr. '78
Jeffrey Alperin '84
Benjamin P. Alschuler '60
Sam Alschuler '35
Peter A. Altatfe '83
Alfred C. Aman, Jr. '70
Barbara J. Anderson '84
Bryan S. Anderson '86 and Melissa A. Potsky '86
C. David Anderson '67
Lyle R. Anderson '82
Mark D. Anderson '77
Terence J. Anderson '64
Charles R. Andrews '58
Joseph L. Andrus '76
Milton S. Applebaum '33
David L. Applegate '78
Terry S. Arbit '83
Bennett Archambault
Leonard P. Aries '32
Kenneth E. Armstrong '72
Donald E. Arnell '56
Frederic J. Artwick '70
Anna B. Ashcraft '81
Gilbert F. Asher '64
Lester Asher '52
Frederick E. Attaway '73
Boris Auerbach '54
James L. Austin, Jr. '75
Martin P. Averbuch '77
Rosemary B. Avery '71
Robert M. Axelrod '74
Fredrick W. Axley '69
Oliver V. Axster '54
Stephen L. Babcock '66
George E. Badenoch '66
Richard I. Badger '68 and Inge Frykland '79
Arthur J. Baer, Jr. '51
Paula M. Bagger '83 and James T. Vradelis '85
Fredrick J. Bailey III '76
Roger A. Baird '58
David B. Baker '82
Samuel M. Baker '72
Thomas A. Baker '74
Dennis R. Baldwin '65
Sharon Baldwin '75
Sara B. Bales '70
Lance C. Balk '84
James M. Ball '74
Judith E. Ball '67
Thomas A. Balmer '77
Joseph S. Balsamo '52
E. Jeffrey Banchero '77
Anthony H. Barash '68
Andrew L. Barber '79 and Mary E. Kazimer '85
Courtenay Barber, Jr.
Dennis M. and Marlon Barden
Jayne W. Barnard '75
Carey S. Barney '62
Karl R. Barnickel III '66
Paul W. Bartker '71
Aaron E. Bartels '74
Philip H. Bartels '74
Fred H. Bartlit '73
Ann V. Bartsch '77
Victor Bass '73
Patrick B. Bauer '75 and Christine M. Luzzie '75
Marc L. Bauer '84
Lori L. '84 and Todd A. Bauman '84
Lawrence G. Becker '64
Charles T. Beeching, Jr. '55
Jack D. Beem '55
Marc O. Beem, Jr. '75
Jack M. Beckman '83
Joel Behr '67
Ira S. Bell '60
Gary L. Bengston '63
William W. Bennett, Jr. '75
Frank N. Bentkovsky '68
Mary K. Bentley '85
H. Nicholas Berberian '78
Walter F. Berdal '38
Robert J. Berg '83
Thomas W. Bergdall '76
Joel Berger '68
Peter Berkos
Arthur E. Berlin '49
Jeremy A. Berman '81
Frank C. Bernhard '30
Donald S. Bernstein '78
Joel M. Bernstein '69
Jose L. Berra '84
Christopher S. Berry '76
Jean Berthelot
William E. Bertholf, Jr. '53
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James E. Betke '66
Jerry H. Biederer '71
James L. Billinger '67
Wendy C. Binder '72
Charles C. Bingaman '66
Donald J. Bingle '79
James R. Bird '77
Mark R. Bires
George F. Bishop '79
Barton A. '81 and Kim F. Bixenstine '82
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Ross W. Blair '85
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George T. Bogert '44
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Richard W. Bogosian '62
Fern C. Bomchill '72
Andy L. Bond '65
Judith A. Bonderman '68
Gerardo M. Boniello '70
Kurt Borchart '37
Richard M. Boterri '71
John W. Bowden '53
William J. Bowe '67
Harold H. Bowman '51
Bruce W. Boyd '84
Timothy D. Bradbury '72
Charles R. Brainard '58
Steve A. Brand '73
Gene B. Brandzel '61
Lynn S. Brannham '80
Philip L. Bransky '61
Uzzell S. Branson III '69
Ernest A. Braun '38
Geoffrey A. Braun '67
Carol M. '72 and Michael A. Braun '72
Bruce E. Braverman '81
Rhea L. Brennwater '77
Abraham J. Brilloff '59
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Hugh A. Brodky '54
Michael T. Brody '83
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Juanita Bromberg
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David R. '78 and Elizabeth A. Brown '79
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Mabel W. Brown '41
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McKnight Brunn '49
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Richard W. Burke '58
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Jean W. Burns '73
John E. Burns '74
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Thomas F. Bush, Jr. '79
Kenneth V. Butler '59
Allan M. Caditz '52
Debra A. Caffaro '82
Bruce D. Campbell '52
William J. Candee IV '86
Karen J. Canon '84
Jack P. Caolo '70
Randall E. Cape '78
David A. Caprera '79
Thomas Carlin '25
Thomas P. Carroll '81
R. Guy Carter '31
Gerhard Casper
George J. Casson, Jr. '72

# = Restricted gift
* = Restricted and unrestricted gifts
† = Deceased
Richard Cunningham '82
David P. Currie
#George B. Curtis '76
Charles F. Custer '59
#Thomas G. Dugger '85
Volker Dahlgrün '82
Robert P. Dahquist '82
Robert V. Dalenberg '53
#James W. Daniels '70
Douglas F. Darbut '79
Nathan H. Dardick '74
#Peter H. Darrow '67
#Carla and Joe J. Daruty
Joseph N. Darweesh '64
#Beth B. Davis '74
Gary E. Davis '63
#Howard J. Davis '80
#Jane S. and Muller Davis
Joseph Davis '56
James M. Davran '41
George L. Dawson '69
Lloyd R. Day, Jr. '79
Edward R. De Grazia '51
Herbert C. De Young '78
Jonathan Dean '70
John M. Delehanty '69
Dennis M. DeLeo '66
Harlan L. Delisy '72
Darrell L. DeMoss '74
Loren L. Dessonville '78
Shari S. Diamond '85
Vincent L. Diana '55
George R. Diaz-Arrastia '83
Robert J. Diercks '66
David G. Dietze '82
#Patrick P. Dinardo '82
Richard G. Dinning '49
Robert L. Doan '59
Hugh J. Dobbs '25
Daniel L. Doctoroff '84
Donald D. Dodd '50
#Bernardine R. Dohrn '67
Alan R. Dominick '69
#Michael A. Donella '79
Robert J. Donnelan '64
Antonia M. Donovan '85 and
Patrick T. Finegan '84
Fred J. Dophede '51
Nancy E. Dorf '86
Charles L. Dostal, Jr. '69
Donald C. Dowling '61
Barbara Downey '78
James A. Downs '86
Richard N. Doyle '66
John T. Duax '71
F. Ellen Duff '80
James D. Dufrrain '52
Thomas V. Dulchich '80
#Anne C. and Allison Dunham
Seymour H. Dussman '65
Morris G. Dyner '67
David P. Earle III '62
Robert Eastburn, Jr. '67
Keith E. Eastin '67
Robert L. Ebe '76
Edward K. Eberhart '60
James I. Edelson '80
Michael F. Eichert '76
#John C. Eischt '82
Seth A. Eisner '76
Donald E. Ellisburg '63
H. Anderson Ellsworth '74
Lowell N. Eilen '62
William B. Elson, Jr. '35
Tim J. Emmitt '65
Sheri J. Engelken '83
#Glenn M. Engelmann '80
Charles L. Ephraim '77
Elliot S. Epstein '51
Samuel B. Epstein '15
John A. Erich '72
#Diane Erickson '73 and Ronald
K. Sakimura '75
David T. Eric '84
Howard G. Ervin III '72
Henry J. Escher III '77
John S. Eskilson '64
#Jerry A. Easig '78
Jeanne B. '83 and John R.
Ettelson '84
Ralph B. Ettlinger '45
David M. Evans '61
Andrew L. Fabens III '67
#Terry S. Fagen '58
Andre L. Faoro '87
Frank C. Fariss '57
Ward Farnsworth '58
James R. Faulstich '61
James E. Fearn, Jr. '71
#Stephen Fedo '81
John N. Fegan '34
Jay M. Feinman '75
Steven B. Feirson '75
#Bruce S. Feldacker '65
Leo Feldman '54
#Ronald S. Feldman
#Henry F. Field '65
Jonathan I. Fieldman '84
#Jared D. H. and Linda B.
Fiffer
#William L. Fillmore '76
*James M. Finberg '83
*Martha L. Fineman '75
William B. Fisch '62
#Daniel R. Fischel '77
*Justine Fischer '71
Henry D. Fisher '32
#Steven L. Fisher '73
Laura K. and Walter T. Fisher
'17
Ward P. Fisher '52
#Owen M. Fiss
Thomas M. Fitzpatrick '76
Estate of Dale H. Flagg '25
*Arnold M. Flamm '50
Gregory J. Flemming '81
David K. Floyd '60
Martin G. Fogelson '66
James H. Foster '80
Jacob L. Fox '47
James H. Fox '78
Carl B. Frankel '57
Jack E. Frankel '50
*David M. Frankford '79
Richard S. Frase '70
Deborah D. Fraser '77
*Merrill A. Freed '53
*George S. Freudenthal Jr. '32
Bernard A. Fried '28
#Ellen S. Friedman '81
Gary M. Friedman '83
Richard F. Friedman '68
*Deborah A. '85 and Stuart E.
Fross '85
Keith E. Fry '55
#Wilson P. Funkhouser, Jr. '73
#Aviva Futorian '70
Paul J. Galanti '63
Daniel P. Gallagher, Jr. '76
George F. Galland, Jr. '73
3. The D'Angelo Law
Library currently has a
collection of around
489,000 volumes. How many
books did the Law School
have when it started in 1902?
(a) 18,000; (b) 55,000; (c)
93,000; (d) 105,000.

*Deborah A. '85 and Stuart E.
Fross '85
Keith E. Fry '55
#Wilson P. Funkhouser, Jr. '73
#Aviva Futorian '70
Paul J. Galanti '63
Daniel P. Gallagher, Jr. '76
George F. Galland, Jr. '73
4. In his address at the dedication of the new Law School building in 1959, who said: “Law provides the order that permits freedom to flourish. Consider the problem of political succession. In this country we know exactly when a President’s term will end, exactly what procedures will be followed to designate his successor, and exactly when the successor’s term will end. We respect the procedures—the rule of law—for determining political succession, and, no matter how intense the rivalry may be, we abide by the decisions registered in free elections.”
(a) Earl Warren; (b) Richard Nixon; (c) Nelson Rockefeller; (d) Harry Truman.
5. Who was the first non-lawyer to join the faculty and when?
(a) Mortimer Adler; (b) Ronald Coase; (c) Aaron Director; (d) Henry Simons.
This list gratefully acknowledges the generosity of alumni who made gifts to the Law School during 1987-88. Gifts recorded in the honor roll were received at the Law School by June 30, 1988.

1910
Estate of Leo Spitz

1915
Samuel B. Epstein
Estate of Morris E. Feinwell
Estate of Wendell M. Levi

1917
Walter T. Fisher

1919
Grover C. Wilson

1920
Estate of Earl B. Dickerson
Carl S. Lloyd

1921
*Bernard Nath
Maurice Walk

1923
Fred H. Bartlit

1924
L. Julian Harris

1925
Thomas Carlin
Hugh J. Dobbs
Estate of Dale H. Flagg
Earl D. Reese
David Ziskind

1926
Sidney N. Cornwall
Philip R. Toomin

1927
Morton J. Barnard
Paul W. Barrett
Rhea L. Brennawasser
Robert L. Hunter
Estate of Paul E. Mathias
Lester Reinwald
Irving Stenn
Peter J. Troy

1928
William H. Abbott
Herbert C. De Young
Alex Elson
Gould Fox
Bernard A. Fried
Hymen S. Gratch
Harold J. Green
Andrew C. Hamilton
Bryce L. Hamilton
George C. Hoffmann
Ines Hoffmann
Milton Kepecs
Thomas R. Muiroy
Melvin H. Specter
Henry P. Weihefena

1929
William H. Alexander
Catherine W. Bullard
Bernard L. Edelman
Berthold J. Harris
Sam S. Hughes
Samuel A. Karzin
Clyde L. Korman
*Robert McDougal, Jr.
Lester Piotkin
Louis Sevin

1930
Albert H. Allen
Frank C. Bernard
Donald B. Diddell
Milton L. Durlach
Philip M. Glick
John W. Golosinec
Allen Heald
Ednabelle H. Hertz
John T. Jones
Joseph S. Jones
#Benjamin Landis
Paul H. Leffmann
Harold A. Olson
George B. Pidot
Robert N. Reid
Charles D. Sarinove
Joseph C. Swidler
Donald L. Vetter

1931
Morris Blank
William G. Burns
R. Guy Carter
Frank H. Deterweiler
Isaiah S. Dorfman
Alderman Dystrup
Robert S. Friend
Rudolph J. Fricka
Arthur M. Frutkin
Joseph E. Green
Morton Hausinger
Frederic W. Heineman
Gerhard S. Jersild
Elliott A. Johnson
William Klevs
Julian H. Levi
Samuel N. Levin
Elvin E. Overton
Emmanuel J. Seidner
Robert A. Snow

1932
Leonard P. Aries
Lester Asher
Howard P. Clarke
Paul S. Davis
Lommen D. Eley
Henry D. Fisher
Robert A. Frank
*George S. Freudenthal, Jr.
*Herbert B. Fried
Estate of Frank Greenberg
Sidney J. Hess, Jr.
Martin K. Irwin
Arthur D. Lewis
Edward Lewison
John F. McCarthy
Norman H. Nachman
*Irving B. Nahburg
William G. Navid
Paul Niederman
Frederick Sass, Jr.
Leonard Schram
Jacob M. Shapiro
Milton Silis
William H. Thomas

1933
Milton S. Applebaum
*Charles W. Board
Bernard D. Cahn
William B. Danforth
Louren G. Davidson
Elmer C. Grage
A. R. Griffith
Ben Grodziak
George L. Hecder
John N. Hughes
Stanley A. Kaplan
Miriam H. Keare
Harold Kruley
Morris I. Leibman
Donald P. McFadyn
Robert H. O'Brien
Robert L. Shapiro
David F. Silverzweig
Edward K. Stackler
Joseph J. Ticktin
Theodore D. Tiekens

1934
Anonymous (1)
Joseph J. Abbell
Burton Aries
Ceclia L. Corbett
Harold Durlach
John N. Fegan
Brimon Grow
Joseph L. Mack
Roland C. Matthes
Benjamin Ordower
Harold Orlinsky
James L. Porter
Kenneth C. Prince
Arthur Y. Schulson
Harry B. Somson, Jr.
Raymond Wallenstein
Charles D. Woodruff

1935
Sam Alschuler
Max L. Chil
William B. Elson, Jr.
Ray Forrester
Lewis G. Groebe
George L. Herbolzheimer
John C. Howard
Laura C. Janas
Paul R. Kitch
Philip C. Lederer
*Edward H. Levi
Allan A. Marver
Stanley Mosk
#Bernard Sang
Sam Schoenberg
Thomas M. Thomas
Paul F. Treusch
Maurice S. Weigle
*James I. Zacharias
Joseph T. Zoline

1936
Herman J. De Koven
Harold W. Huff
Herbert Israelstam
Carroll Johnson
*Donald R. Kerr
John M. Knowlton
Robert E. Levin
Lawrence E. Leyw
Solomon G. Lippman
Herman Odell
Herbert Portes
Erwin Shafer
Blanche B. Simmons
Marvin L. Simon
Alfred R. Stet
Jerome S. Wald

1937
Harry Adelman
Kenneth W. Black
Sherman M. Booth
Kurt Borchardt
Max Davidson
William R. Emery
Edward D. Friedman
Frank L. Gibson
Isadore Goffen
Roger S. Gorman, Jr.
Estate of Benjamin Z. Gould
Arthur I. Grossman
Elmer M. Heifetz
Earl G. Kunz
Richard H. Levin
Samuel R. Lewis, Jr.
Dugald S. McDougall
*Bernard D. Meltzer
Byron S. Miller
Jeanette R. Miller
Louis R. Miller
Robert D. Morgan
Keith J. Parsons
Gerald Ratner
Samuel Schlesinger
Charles O. Sethness
Allen Sinshheimer, Jr.
Harold E. Spencer
Robert A. Thorsen
Peter N. Todhunter
Matthew E. Welsh
Hubert L. Will

1938
Irwin J. Askow
Roger A. Baird
John P. Barden
Walter B. Berdal
Ernest A. Braun
Marcus Cohn
Robert A. Crane
George T. Donohue, Jr.
Zalmon S. Goldsmith
Henry L. Hill
Quintin Johnstone
Warren R. Kahn
Jerome S. Klein
Stanford Miller
Myra A. Nichols
Jerome Richard
Homer E. Rosenberg
Maurice Rosenfield
Ralph J. Wheling
Fredric J. White

1939
Ami F. Allen
Irving I. Axelrad
Paul M. Barnes
Melvin A. Garretson
Richard D. Hall
John N. Hazard
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Eleanor B. Alter 
Alltheim & Gray 
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Bennett Archambault 
Douglas G. Baird 
Wallace R. Baker 
Courtenay Barber, Jr. 
Devin M. and Marlon J. Barden 
Alice H. and Paul M. Bator 
Peter Berkos 
Jean Berthelot 
Mark R. Bires 
Harry & Maribel G. Blum Foundation 
Nathan and Emily S. Blum Foundation 
Roger Bosch 
Robert G. Braden 
Lynde and Harry Bradley Foundation 
Abraham J. Briloff 
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Henri L. Bromberg III 
Juanita Bromberg 
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#Gerhard Casper 
Hammond E. Chaffetz 
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#Chicago Community Foundation 
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#Gerald J. Christian 
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#Allen and Joan P. Clement 
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#Jerry Cohen 
#Margie Cohen 
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Judith S. Cottle 
#Harry M. and Ludmilla Coven 
#Evelyn H. and Murray Creme 
#Gail Crosby 
#David P. Currie 
#Joe C. and Carole Darby 
#Jane S. and Muller Davis 
#Kenneth C. Davis 
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Aaron Director 
#John T. Duff III 
#Anac C. and Allison Dunham 
Leonard C. and Marjory W. Everson 
#Burton E. Feldman 
#Ronald S. Feldman 
#Owen M. Fiss 
Harold F. Foreman, Jr. 
#Jeffrey Fried 
Gustavus Guts 
#Federal Republic of Germany 
#Iona H. Ginsburg 

#Gertrude W. and Howard M. Goodwin 
Gerald R. Gorman 
#Jack L. Gosden 
#Eugene J. Grady 
#William W. and Velma R. Gray 
#William A. Greenberg 
#Randall B. Haberman 
Susan C. Haddad 
William N. Haddad 
Mary C. Hagman 
Douglas I. Hague 
#Frances and J. Parker Hall 
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Joseph Herman 
#Herbert H. Heyman 
Frederick Hickman 
#Howard B. Hodges 
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10. How many fountains are there in the reflecting pool?
At the annual Alumni Dinner on May 5, 1988, the Alumni Association honored Professors Walter J. Blum (J.D. '41) and Spencer L. Kimball, who attained emeritus status on October 1 this year. The Law School will not say farewell to the two professors, however, for both have graciously accepted post-retirement appointments and will continue to teach part-time in their respective fields of tax and insurance.

At the dinner, Rex E. Lee (J.D. '63), former Solicitor General of the United States and a partner at Sidley & Austin, paid tribute to Spencer Kimball. Howard G. Krane, (J.D. '57), a partner at Kirkland & Ellis and trustee of the University of Chicago, spoke in praise of Walter Blum.

ALUMNI HONOR BLUM & KIMBALL

Rex Lee . . .

Tonight we honor two distinguished members of our Law School faculty. One of them, Walter Blum, was my teacher. He was one of the best I had from the time I started first grade until I graduated from law school. Spencer Kimball, by contrast, is a person I did not even know until I was ten years out of law school. He is nevertheless a person for whom I have the greatest personal fondness and professional admiration.

From his modest beginnings in the little town of Thatcher, Arizona, where he was born and raised, Spence has become a widely recognized leader of our profession. I think it is safe to say that he is the nation’s leading authority on insurance regulation. But beyond this and other specialized proficiencies, Spence is a man of great breadth, creativity, and sensitivity. He is a man who genuinely cares. He cares about other people, about his family, his students, and the legal profession. My personal discovery of this fact occurred some fifteen years ago, when I was in the throes of trying to start a new law school. There were about a half dozen people who demonstrated an extra measure of unselfish helpfulness without having any real personal stake in my problem. Two of them are members of this faculty: Phil Neal and Spencer Kimball.

Spencer Kimball is a Rhodes Scholar who has gone on to become a scholar in every sense of that word. His writings are known and respected by persons who are knowledgeable in his fields. His writings have also had an impact on the development of our laws. He has written five books and many articles. He has received the American Bar Foundation’s Fellows Research Award and the Elizur Wright Award for the most significant contribution to literature about insurance.

Spence has been a faculty member at four law schools and the dean at two. The fact that he would serve as a dean for a second time calls his judgement into question, but there are two mitigating factors.
The first is that at the time he took his first deanship, at the University of Utah, he was very young. At thirty-two he was one of the youngest law school deans in the country. Second, measuring all the persons who have ever served as a law school dean in the state of Utah by a combination of good looks and scintillating personality, Spence Kimball comes in second on that all-time list.

If you were to ask our honoree what he considers his most important accomplishment in life, my guess is that the answer would relate to his family. On several occasions I had the opportunity of observing first-hand the great love and warmth that he felt for his father and mother. About one month from now he and his wife Kathryn will observe their forty-ninth wedding anniversary. They have raised six children and have thirteen grandchildren. They remain a close and devoted family. On behalf of all of us, I express our appreciation, our admiration, and our love for one of our finest, Spencer L. Kimball.

Howard Krane ... 

At the outset of this evening's festivities, Howard Koven mentioned that he had known the last seven deans of the Law School. He failed, however, to mention Walter Blum, who, as we all know, has served as shadow dean of the Law School for decades. Walter is much more than an extraordinarily popular and effective professor who is one of the country's most brilliant and respected tax minds. He is a person with an extraordinary range of intellectual undertakings and interests. He is also someone, who, first as a student and then for over forty years as a professor, has cared passionately about the Law School. He is and has been interested in all aspects of the Law School—the quality of the education, the calibre of the faculty and students, the efficiency of the administration, and yes, even the mundane details of making sure the physical facility works, and works well.

An event that happened just about twenty-five years ago epitomizes the depth and breadth of Walter's commitment and concern for the Law School. The Pevsner sculpture that stands in front of the reflecting pool of the Law School was being dedicated. A number of distinguished personages were in attendance for the dedication, including dignitaries from France (the sculptor's own country), as well as many important officials from the Law School and the University community. All of these dignitaries gathered for the dedication ceremony, dressed in gowns and ceremonial sashes. As the program began, soap bubbles began floating out of the pool and filling the air, the result of a prank of a mischievous student who had placed twenty-five pounds of detergent in the reflecting pool. The next morning, Walter put the following note on the bulletin board: "Will the person who put the detergent in the reflecting pool yesterday please see me immediately. Walter J. Blum." This succinct note conveys not just Walter's optimism about human nature, but demonstrates his deep sense of responsibility for the wellbeing of the Law School. Nevertheless, it is my understanding that he still does not know the identity of the detergent culprit.

I ask you to rise and join me in a toast to our great friend and colleague, Walter Blum.
Memoranda

APPOINTMENTS

Faculty

Albert W. Alschuler has been appointed the Wilson-Dickinson Professor of Law, effective July 1. The professorship, established in 1974, honors the memory of John Wilson and Anna Wilson Dickinson. It was previously held by Walter Blum (J.D. ‘41). Professor Alschuler is a 1965 graduate of Harvard Law School, where he was case editor of the Law Review. He joined the University of Chicago Law School faculty in 1985, after teaching at the universities of Pennsylvania, Colorado, and Texas. Mr. Alschuler, who studies criminal law and procedure, has written extensively on plea bargaining and sentencing reform. He has been an outspoken opponent of recent, more stringent federal sentencing guidelines.

Gerhard Casper has been appointed William B. Graham Distinguished Service Professor of Law, effective October, 1987. Mr. Casper joined the Law School faculty in 1966. He was the Max Pam Professor of Law from 1976 to 1980 when he was appointed William B. Graham Professor of Law. He served as Dean of the Law School from 1979–1987. Mr. Casper’s research interests lie mainly in the fields of constitutional law, constitutional history, comparative law and jurisprudence. He is editor of The Supreme Court Review (together with Philip Kurland and Dennis Hutchinson) and is Director of the Law School’s new Program in Law and Government.

Richard A. Epstein has been named the James Parker Hall Distinguished Service Professor of Law. Mr. Epstein, a graduate of Columbia College, Oxford University, and Yale Law School, teaches and writes in many legal areas, including property, contracts, torts, and Roman Law. His controversial book, Takings, Private Property and the Power of Eminent Domain appeared in 1985. Mr. Epstein has been editor of the prestigious Journal of Legal Studies since 1981. In 1985 he was elected a fellow of the American Academy of Arts and Sciences.

Walter J. Blum, Edward H. Levi Distinguished Service Professor, attained retirement status on October 1, after forty years as a member of the Law School faculty. (See page 56.) Mr. Blum has graciously accepted a post-retirement appointment and is teaching two courses in the tax and corporate reorganization curriculum during 1988–89.

Spencer L. Kimball, Seymour Logan Professor of Law, attained retirement status on October 1, 1988, after nearly forty years in law teaching, including two terms as dean, at the University of Utah College of Law and the University of Wisconsin Law School. (See page 56.) He has been a member of the University of Chicago Law School’s faculty since 1972. Mr. Kimball has graciously accepted a post-retirement appointment to teach insurance during the 1988–89 academic year.

James D. Holzhauer, Assistant Professor of Law, resigned his appointment at the Law School, effective June 30, to join the Chicago law firm of Mayer, Brown & Platt. Mr. Holzhauer is continuing his association with the Law School, however, having accepted an appointment as Lecturer in Law to teach a course and a seminar during 1988–89.

Visiting Faculty

Donald L. Horowitz has accepted an appointment as Visiting Professor of Law for the Autumn Quarter, 1988. Mr. Horowitz, who is Professor of Law, Public Policy Studies, and Political Science at Duke University, has served as chair of the American Academy of Arts and Sciences Planning Group on Ethnicity and chair of the Advisory Committee to the U.S. Commission on Civil Rights. He is the author of numerous articles and books, including The Courts and Social Policy (1977), which won the Louis Brownlow Prize for the best book on public administration and Ethnic Groups in Conflict (1985). He is currently at work on Methods of Statutory Interpretation in American Law. Mr. Horowitz will teach Labor Law and a seminar on Comparative Law, Politics & Policy: Ethnic Group Relations.

Nils G. Mattsson will serve as Visiting Professor of Law and Law and Government Fellow for the Spring Quarter, 1989. Mr. Mattsson comes
from Uppsala University in Sweden, where he is Professor of Law. He currently serves as consultant to an Ad Hoc Committee on Tax Expenditures appointed by the Ministers of Finance of Denmark, Finland, Iceland, Norway, and Sweden, and he is the author of several books, including *Swedish International Tax and Taxation of Partnerships*. Mr. Mattsson will teach a course on Comparative Welfare Policy.

**Knut Nörr**

Knut W. Nörr will be the Max Rheinstein Visiting Professor during the Autumn Quarter, 1988. Mr. Nörr, a professor at the University of Tübingen, is a leading legal historian in Germany. In recent years, he has served as a visiting professor at the University of California at Berkeley and has taught and lectured in Canada, England, France, Spain, Italy, Austria, Switzerland, Japan, and Hong Kong. Mr. Nörr will teach a course on Developments in German Law since 1900.

**Lecturers in Law**

Jack S. Levin, a partner in the Chicago law firm of Kirkland & Ellis and the author of more than twenty books and articles, will serve as Lecturer in Law during the 1988-89 academic year. Mr. Levin received his L.L.B. summa cum laude from Harvard Law School. He is an expert in areas of tax, corporate mergers and acquisitions, venture capital, and complex business transactions and has lectured and written widely on these topics. Mr. Levin will teach a seminar on Structuring Venture Capital and Entrepreneurial Transactions in the Spring Quarter.

Jeffrey T. Sheffield, a partner in the law firm of Kirkland & Ellis, has been appointed a Lecturer in Law for the academic year 1988-89. Mr. Sheffield graduated with honors from the University of Chicago in 1976 and received his J.D. degree from Harvard Law School, cum laude, in 1979, where he was articles editor on the *Harvard Law Review*. He then served as law clerk to Justice Benjamin Kaplan of the Massachusetts Supreme Judicial Court. Mr. Sheffield specializes in federal income taxation. At the Law School he will co-teach a course on Business Planning.

**Mandel Legal Aid Clinic**

Mark Heyman and Randall Schmidt have been promoted to Senior Clinical Lecturers in Law.

After graduating from the Law School in 1977, Mr. Heyman spent a year as an Assistant Defender at the Office of the State Appellate Defender of Illinois. He joined the Mandel Legal Aid Clinic in 1978 and specializes in the rights of the mentally disabled and the education rights of handicapped children. He is a member of the mental health committees of the Chicago Bar Association and the Chicago Council of Lawyers.

For two years after his graduation from the Law School in 1979, Randall Schmidt practiced law with the Chicago law firm of Aaron, Schimberg, Hess, Rusnak, Deutsch and Gilbert. He joined the Mandel Legal Aid Clinic in January 1981 and specializes in employment discrimination cases.

**Bigelow Teaching Fellows**

Thomas J. Frederick graduated from Michigan State University in 1978 with high honors. He received his J.D. cum laude from the University of Michigan Law School in 1984; where he served as Articles Editor of the *Michigan Law Review*, received the Helen L. DeRoy Memorial Award for the best student contribution to the *Law Review*, and was elected to the Order of the Coif. Since graduation, he has worked for the Chicago law firm of Winston & Strawn as an associate in general litigation, specializing in securities fraud litigation, construction contract litigation and appellate advocacy.

Stephen M. Griffin earned his B.G.S. from the University of Kansas in 1979. After a year of graduate study at the University of California at San Diego, he turned to law school, receiving his J.D. in 1983 from the University of Kansas Law School. He earned an LL.M. from New York University Law School in 1986. Since then he has served as a Research Instructor in Law at NYU Law School. He has written several articles, including "Reconstructing Rawls' Theory of Justice" in volume 62 of the *New York University Law Review*.

David Grosz received his J.D. from the University of California at Los Angeles Law School in 1975. While at law school, he worked for the NAACP Legal Defense and Education Fund and the Federal Prisoners’ Civil Litigation Project. Since 1978, he has worked with the Los Angeles law firm of Fisher & Moest, in the fields of public law, constitutional law and civil liberties. His clients have included charitable and religious organizations, municipalities, environmental groups, college teachers, and journalists. He
has worked on several cases in the United States Supreme Court, including most recently Board of Airport Commissioners v. J e u s s for Jesus (1987).

**Michael Osborne** received his B.A. in law and political theory in 1983 and his LL.B. cum laude in 1986 from the University of Witwatersrand in Johannesburg, South Africa. He received his LL.M. from the University of Notre Dame Law School and has served several academic awards, including the Bradley Notre Dame Human Rights Law Scholarship, the Edward Nathan and Friedland Scholarship for academic excellence, and the Human Sciences Research Council Bursary. He has also published several articles, including "Arrest by Force" in volume 16 of Businessman's Law.

**Barbara Y. Welke** received her B.A. with highest distinction from the University of Kansas in 1980. She earned her J.D. cum laude in 1983 from the University of Michigan Law School, where she worked on the Journal of Law Reform and won the Law School Scholarly Writing Award. After graduating, she practiced law for two years with the Chicago law firm of Jenner & Block and spent a year as a cooperating attorney with the American Civil Liberties Union. Ms. Welke is currently a Century Fund Fellow at the University of Chicago, where she is a Ph.D. candidate in history.

**Meera Werth** graduated from the Lady Shri Ram College of the University of New Delhi before enrolling in IIT Chicago-Kent College of Law. She received her J.D. with highest honors in 1984, having served as a member of the Moot Court Society, a Legal Writing Teaching Assistant, and Lead Articles Editor of the Law Review, in which she published a comment entitled "Spousal Notification and the Right of Privacy." Since graduating Ms. Werth has practiced law with the Chicago firm of Schiff, Hardin & Waite, where she has specialized in general litigation.

**John M. Olin Fellows**

**Francis Buckley** has been appointed a John M. Olin Visiting Fellow in Law and Economics for 1988-89. Mr. Buckley received his B.A. in 1969 and his LL.B. in 1974 from McGill University, Montreal, where he was editor-in-chief of the McGill Law Journal. He received the LL.M. degree from Harvard Law School in 1975. Mr. Buckley joined the faculty of McGill University in 1977 and has been Associate Professor of Law since 1984.

**Lloyd R. Cohen** has been appointed John M. Olin Visiting Fellow in Law and Economics for 1988-89. Mr. Cohen graduated from Harpur College in 1968. He received his M.A. degree in economics in 1973 from the State University of New York at Binghamton and his Ph.D. in 1976 from the same institution. After a period of teaching economics, Mr. Cohen entered Emory University School of Law, earning his J.D. with honors in 1983. He was articles editor of the Emory Law Journal and was elected to the Order of the Coif. After graduating he clerked for Judge Gerald B. Tjoflat of the U.S. Court of Appeals for the 11th Circuit and served for a year as special counsel to Susan Liebeler, Vice Chair of the U.S. International Trade Commission. Since 1985 he has been Associate Professor of Law at California Western School of Law.

**Kramer Fellow**

**Luke M. Froeb** has been selected as the Victor H. Kramer Foundation Fellow for 1988-89. Mr. Froeb is an economist in the Economics Analysis Group of the U.S. Department of Justice and specializes in the economic analysis of criminal law. He earned his Ph.D. in economics from the University of Wisconsin in 1983 and his B.A. in Economics from Stanford University in 1978. Before joining the Justice Department, Mr. Froeb was an Assistant Professor in the Economics Department at Tulane University.

**Administration**

**Robert Evans** has been promoted to Assistant Dean and Director of Graduate Student Affairs, effective July 1, 1988. Ms. Evans received her B.A. with honors from the University of Connecticut in 1958 where she was a member of Phi Beta Kappa. She received her J.D. from the Law School in 1961. Since 1973 she has been associated with the Chicago law firm of Lurie, Sklar and Simon (now Neal, Gerber, Eisenberg and Lurie), where she specializes in probate and estate planning. Ms. Evans has served as Assistant to the Dean at the Law School since 1981.
Justice Scalia at the Law School

Justice Antonin Scalia of the United States Supreme Court returned to the University of Chicago on January 26, 1988, as a Marjorie Kovler Visiting Fellow. He gave a public lecture on "The Constitution, the People, and the Courts" in the Law School's Glen A. Lloyd auditorium and followed this the next day with an informal question and answer session for members of the Law School. In his speech, Justice Scalia discussed the significance that the U.S. Constitution has for the American people. He found it paradoxical that an "afterthought," the Bill of Rights, should today be the most celebrated feature of the Constitution. Comparing the Bill of Rights to that of the Soviet Union, which has far more explicit and expansive guarantees, Scalia pointed out that here liberties and rights exist as "the fruit and not the roots of our constitutional tree"; that is, although not so explicit in the text, these rights arise because the government structure defined in the Articles protects them. "It is those humdrum provisions that convert the Bill of Rights from a paper assurance to a living guarantee." Scalia explored the functions of the Court in the question and answer sessions.

C.R. Musser Lecture

In conjunction with the new Law and Government Program, the Honorable David A. Stockman, former director of the Office of Management and Budget in the Reagan Administration, gave the C.R. Musser Lecture in Law and Economics on February 24. In a talk entitled "The Irony of the Reagan Revolution," in front of a capacity crowd in the Glen A. Lloyd Auditorium, Mr. Stockman discussed the promises made by the Administration at the beginning of President Reagan's first term of office. He asserted that instead of the promised 180 degree change of direction, the inventory of results for 1989 will show no change at all and that the Reagan "insurgency" will end up consolidating the trends of the past fifty years, toward a mild social democracy with a moderate redistribution of wealth. Mr. Stockman illustrated his theme by looking at specific areas of government: the budget, economic and market regulation, health and safety, and the essential architecture of government itself.

Judge Mikva Visits the Law School

Judge Abner J. Mikva (J.D. '51) of the U.S. Court of Appeals for the District of Columbia Circuit returned to the Law School and the University in April as a Marjorie Kovler Visiting Fellow. Judge Mikva spoke to the Law School community on "National Security and Unamericanism." In his talk, Mikva traced the history of the University's struggles with anti-Communist investigating committees of the 1940s and 1950s. He examined in detail the battles President Robert Maynard Hutchins fought with the Illinois legislature over academic freedom, especially the occasion in 1949 when the legislature set up a special commission after University of Chicago and Roosevelt University students had marched to Springfield to protest the passage of the Broyles Act, which made it a felony to belong to a communist or communist front organization. The commission subpoenaed Hutchins to testify "on his own beliefs and those of others," especially profes-
ors who had belonged to organizations regarded as "communist fronts." The commission was also concerned about a communist club on campus "which had all of eleven members," Mikva said.

During what he called the "Frightening Fifties", Mikva said that "there was a fear of the spoken and written word. Freedom of speech is not as absolute as we sometimes think. We Americans consider freedom of speech to be the difference between us and the fascists or the communists, but when we think there's a threat, it's often curtailed." Only as a more secure and mature society will we approach the goals of the First Amendment and be more tolerant of the inflammatory speech and activities that frighten us. He called for a strong, but not absolutist interpretation of the First Amendment and pointed out that massive violations of constitutional rights could happen again.

Judge Mikva served five terms in the Illinois Legislature and five terms in the U.S. Congress before joining the U.S. Court of Appeals. As a U.S. Congressman he opposed increased military spending, favored public financing of congressional campaigns and persistently introduced handgun control bills. He graduated with honors from the Law School, where he was editor-in-chief of the Law Review.

The Marjorie Kovler Visiting Fellows Program is designed to encourage interaction between students and prominent individuals in the arts and public affairs. Previous Fellows have included Justice John Paul Stevens, Senator Gary Hart, Beverly Sills, and Charlton Heston.

Ulysses S. & Marguerite S. Schwartz Lecture

On April 26, Eleanor B. Alter, a member of the New York law firm of Rosenman & Colin, delivered a speech to the Law School community entitled "You Can't Go Home Again: How Family Law is Changing Who We Are and What We Own." Ms. Alter was the Ulysses S. & Marguerite S. Schwartz Visiting Fellow in the Spring Quarter, 1988. Her talk focused on the area of property and judicial discretion in matrimonial law. Pointing out that 50 percent of all civil litigation is matrimonially related, Ms. Alter reviewed the great variations between jurisdictions over such matters as whether marriage is a partnership and what property is subject to division. Courts have great discretion in administering the division of property and inconsistencies arise, even within the same state. There are virtually no guidelines and problems of identifying property, such as academic degrees earned during the marriage with the assets of the other spouse, commingling of assets, appreciation of assets and income from separate property, and indirect contributions (such as homemaking) must be resolved. All these aspects produce

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University’s Centennial Plans Underway

The University of Chicago reaches its centennial in 1991 and a year of celebrations from October 1991 to October 1992 is being planned. Chairing the faculty Centennial Planning Committee is Walter J. Blum (J.D. '41), Edward H. Levi Distinguished Service Professor Emeritus. Gerhard Casper is also a member of the Committee, while Richard Epstein is chair of the academic conferences subcommittee.

The theme of the celebrations will be "The Idea of a University." Although events will represent a serious consideration of themes suggested by the University’s first hundred years, Mr. Blum also sees the celebration as "light-hearted and playful," and envisions such attractions as a hot-air balloon stationed in the center of campus that would give people a bird’s-eye view of the University and its neighborhood. He also hopes to see a number of exhibits on campus that would show, for example, what William Rainey Harper’s office looked like during the University’s first years or what apparatus scientists used to perform some of the first experiments on campus.

A number of academic conferences are already being arranged for the Centennial year. The Law School, in conjunction with the Robert J. Kutak Foundation, has planned a conference on the Bill of Rights that will also mark the 200th anniversary of that document. A conference on the structure of the academic disciplines will look at today’s universities and consider whether the structure continues to provide opportunities for intellectual growth. The Chicago Historical Society is planning a major exhibition on “Chicago in the 1890s” that will focus on the founding of the University and several other cultural institutions during the decade of “Chicago Renaissance,” as it has come to be called. Major exhibitions are also planned for the Smart Gallery, the Regenstein Library, and the Renaissance Society. Hyde Park’s commemoration of its incorporation into the city of Chicago in 1889 will also link up with the University’s celebrations.

Walter Blum’s family was living in Chicago at the time of the foundation of the University. “The 1890s was a fabulous period in Chicago’s development,” he says. “The Centennial will explore the juxtaposition of that history against the history of the University, which was a major contributor to the cultural growth of the city.”
lengthy and expensive litigation and most cases are settled just to avoid these problems. Interest in prenuptial contracts is also growing. Ms. Alter proposed some remedies, such as a fifty-fifty division of all property except that which has been kept separate. Parties should be allowed to contract out of the system. She explained that this would increase consistency, reduce costs and make both parties “equal.”

D. Francis Bustin Prizes

Three faculty members have been awarded D. Francis Bustin Prizes this year. Ronald H. Coase, Clifton R. Musser Professor Emeritus of Economics, received the award for his book *The Firm, the Market, and the Law*. David P. Currie, Harry N. Wyatt Professor of Law, was recognized for his continuing scholarship on the history of the Supreme Court’s interpretation of the United States Constitution. Harry Kalven, Jr. (J.D. ’38), was posthumously awarded the prize for his book *A Worthy Tradition: Freedom of Speech in America*. The prizes are made possible by the D. Francis Bustin Educational Fund for the Law School and are awarded in recognition of scholarly contributions to the improvement of the processes of our government.

Kurland is Laing Winner

Philip B. Kurland, Professor of Law and William R. Kenan, Jr., Distinguished Service Professor in the College, and his co-editor, Ralph Lerner, received the University of Chicago Press’s 1987 Gordon J. Laing Award for their book *The Founders’ Constitution*. The Laing Award is presented annually to the University faculty author, editor or translator of the book published during the preceding two years that adds the greatest distinction to the list of the University of Chicago Press.

Calabresi Awarded Honorary Degree

Guido Calabresi, Sterling Professor of Law and Dean of Yale Law School, was awarded the honorary degree of Doctor of Laws at the Spring Convocation on June 10, 1988. Mr. Calabresi was honored for his work as a founder of the law and economics movement and as a scholar who has encouraged a style of scholarship in law that treats the legal system as a worthy subject for disinterested and scientific study rather than as a set of rules to be manipulated for political purposes. William M. Landes, Clifton R. Musser Professor of Economics, presented Mr. Calabresi at the Convocation.

Altheimer and Gray Supports Student Activities Area

In 1987 the Placement Office moved to new offices under the Green Lounge and Placement’s old premises below the Moot Court Room were made available as a student lounge. The law firm of Altheimer and Gray has generously provided funds to redecorate and refurbish the area, in memory of Irving B. Natburg (J.D. ’32), a partner in the firm, who died in 1987. The newly decorated room reopened to students at the beginning of the Fall Quarter.
In April, Albert Alschuler, Wilson-Dickinson Professor of Law, participated in a conference on civil procedure reform at Northwestern University Law School. The conference was sponsored by the American Law Institute. In June, Mr. Alschuler gave a lecture on empirical studies of pornography at the Annual Meeting of the Law and Society Association in Vail, Colorado. At that meeting he also took part in a panel discussion on the effectiveness of alternative dispute resolution techniques in civil cases. Mr. Alschuler's paper, Departures and Plea Agreements under the Sentencing Guidelines, appeared in 117 F.R.D. 459 (1988).

In May, he argued on behalf of the constitutionality of the United States Sentencing Commission before the United States Court of Appeals for the 9th Circuit.

In May, Jonathan K. Baum (J.D. '82), Staff Attorney and Clinical Fellow, discussed the Mandel Legal Aid Clinic's new Welfare/Employment Project on a panel at a statewide conference on "Women and Children in Poverty" in Springfield, Illinois. Last December, the Lawyers Trust Fund of Illinois awarded the Clinic an $18,000 grant for the project. Mr. Baum wrote the amicus brief for the ACLU in Frisby v. Schultz (a First Amendment challenge to a residential picketing ban) in the United States Supreme Court.

In March, Mary Becker, Professor of Law, gave the keynote speech at Women's History Week at Mundein College in Chicago. Her talk was entitled "Women and the Constitution." Later in the month, she spoke on the same topic at the Midwest Faculty Conference on the Constitution at the University of Chicago. Ms. Becker also delivered the Centennial Lecture Series on The Constitution and the American Experience at the University of Puget Sound School of Law in Tacoma, Washington. Her theme was "The Constitution and Women."

Gerhard Casper, William B. Graham Distinguished Service Professor of Law, has been awarded the SmithKline Beckman Award in Legal Education from the Institute for Educational Affairs. This grant is to support Mr. Casper's research on American constitutional history during the period between ratification of the Constitution and the presidency of Thomas Jefferson, which will lead to the teaching of an innovative course under the auspices of the Law School's Law and Government Program.

On June 2, Ronald H. Coase, Clifton R. Musser Professor Emeritus of Economics, received an honorary doctorate degree from the University of Köln, West Germany. At the ceremony, Mr. Coase gave a short talk entitled "The Task That Awaits." Two days later, he addressed a seminar at the University and answered questions. On June 6, he gave a lecture at the University of Münster on "The Nature of the Firm," and addressed a seminar the following day. On June 8 he traveled to Wallenfingen in the Saarland to attend a conference organized by the University of the Saarland on "The New Institutional Approach to Economic History."

David Currie with Lawrence Liu '82 in Taipei


In January, 1988, Richard A. Epstein, James Parker Hall Distinguished Service Professor of Law, gave two papers at the AALS meeting in San Francisco, one before the administrative law session on privatization, and one before the real property section on the law of covenants and servitudes. In February, he delivered the Quinlan lecture on the "Rule of Law" at Oklahoma City University Law School. In April he delivered a lecture, sponsored by the Brooklyn Law

At the annual meeting of the Roman Law Society of America in Champaign in April, Richard H. Helmholtz, Ruth Wyatt Rosenson Professor of Law, spoke on his project to translate some of the basic sources in Roman and canon law. Also in April, Mr. Helmholtz spoke to a faculty seminar at Washington University in St. Louis on the origins of the privilege against self-incrimination. Later that month he gave a paper on the relation of legal theory to practice at the annual meeting of the Medieval Academy of America in Philadelphia.

On May 11, 1988, James D. Holzhauer, Assistant Professor of Law, presented a paper entitled "The 'Reverse' Boys Markets Injunction" at the AFL-CIO Union Lawyers Conference in Chicago. On May 15, he participated in a panel discussion at Temple Beth Israel in Skokie on "AIDS: A Legal Perspective." The same week, he participated in a conference on "Health Treatment Rights, HIV and AIDS," sponsored by the National Legal Center for the Medically Dependent & Disabled. Mr. Holzhauer presented a paper at the conference entitled "AIDS Testing in the Health Care Setting."

William M. Landes, Clifton R. Musser Professor of Economics, gave a talk entitled "Strategic Behavior and Antitrust Enforcement" at a conference on Antitrust Issues in Today's Economics held in New York on March 2-3 and sponsored by The Conference Board. Mr. Landes has been appointed to the Committee of Advisers for the American Law Institute's Restatement of the Law of Unfair Competition.

John H. Langbein, Max Pam Professor of American and Foreign Law, presented the annual Joseph Trachtenman Lecture to the American College of Probate Counsel meeting at Marco Island, Florida, on February 25. The lecture, entitled "The Twentieth-Century Revolution in Family Wealth Transmission and the Future of the Probate Bar" is being published in The Probate Lawyer, while a scholarly version is appearing in the Michigan Law Review. On March 22, Mr. Langbein addressed the Chicago Bar Association's Probate Practice Section on "The Next Steps toward Unifying the Law of Probate and Nonprobate Transfers." On May 9, he traveled to St. Louis to speak to the Estate Planning Council on "The Future of the Nonprobate System." He participated in a Wharton School symposium on The Fiduciary Implications of Proxy Voting of Pension Plan Assets' in Philadelphia on May 12. His paper, "The Dilemmas of Fiduciary Investing under ERISA" is to appear in the published conference proceedings. On June 8, Mr. Langbein spoke to the legal history section at the meeting of the Canadian Association of Law Teachers in Windsor, Ontario, on "The Displacement of Judges by Lawyers in the Eighteenth-Century Criminal Trial." Later in the month he participated in a conference on "International Legal Cooperation in Criminal Matters between the United States and the Federal Republic of Germany," held at Harvard Law School for senior government officials and academics from both countries.

Michael W. McConnell (J.D. '79), Assistant Professor of Law, traveled to Arizona State University on February 10 to debate Dean Paul Bender on the meaning of the Religion Clauses of the First Amendment. On February 23, he delivered a lecture at his alma mater, James Madison College of Michigan State University, entitled "Do We Have (Do We Want) a Written Constitution?" The next day he and Professor Fred Schauer discussed Separationism and Religious Freedom at the University of Michigan Law School. On March 30, he argued before the United States Supreme Court on behalf of appellant United Families of America in Kendrick v. Bowen, a case involving the constitutionality of allowing religious organizations to participate in a federally funded program to combat teenage pregnancy. On April 25, Mr. McConnell addressed the National Diocesan Attorneys Conference meeting in Washington, D.C., on "The Religion Clauses: Where Is the Supreme Court Heading?" He and Judge Richard Posner presented a paper entitled "An Economic Analysis of the Religion Clauses of the First Amendment" at the Law School's Law and Economics Workshop on May 24. On June 15, he appeared on WGN Radio's "Extension 720" program to discuss a recent report on censorship in America.

In April, Geoffrey P. Miller, Professor of Law and Associate Dean, delivered a paper on court backlogs at a Yale Law School conference on Civil Liability.

On January 26, Norval Morris, Julius Kreeger Professor of Law and Criminology, gave the keynote speech in Sydney, Australia, at the Interna-
national Correctional Conference, held to mark the Bicentennial of the First Fleet's arrival in Botany Bay. On March 2, he attended a meeting in Washington, D.C., of the Advisory Committee to the Federal Bureau of Prisons. Back in Chicago, he gave the keynote speech at the Annual Meeting of the National Council on Crime and Delinquency on April 15. At the end of April, he gave the dinner address at a meeting at the Patuxent Institute in Maryland, sponsored by the American Academy of Psychiatry and the Law. On May 25, Mr. Morris gave a luncheon address at the Alabama Trial Judges Sentencing Institute in Tuscaloosa, Alabama, for the National Judicial College. The next day he was at the other end of the country, acting as presenter and moderator at a meeting of the Washington Sentencing Guidelines Commission in Seattle and addressing a luncheon meeting. On May 27 he went on to Portland, Oregon, where he addressed the City Club on the subject of “Crime, Crime Rate and Portland.” At the end of June, Mr. Morris chaired a meeting of the Board of the National Institute of Corrections in Louisville, Kentucky.

Daniel N. Shaviro, Assistant Professor of Law, addressed the Tax Management Advisory Board on April 21 in New York and on May 12 in Washington, D.C. He also took part in a panel discussion at the 10th Annual Conference on Federal Taxation of Real Estate Transactions, sponsored by New York University, held on May 2 in New York and June 6 in San Francisco.

On January 26, Geoffrey R. Stone, Harry Kalven, Jr., Professor of Law and Dean of the Law School, spoke to the Ninth Circuit Judicial Conference on “The Supreme Court, the Takings Clause and Freedom of Expression.” At the end of June, he spoke to the Fourth Circuit Judicial Conference on “The 1987 Term of the Supreme Court: The Free Speech and Criminal Procedure Decisions.”

In January, David Strauss, Assistant Professor of Law, spoke on affirmative action at the annual meeting of the American Association of Law Schools in Miami. In April he filed a brief in the United States Supreme Court on behalf of Edward H. Levi, (J.D. '35), Glen A. Lloyd Distinguished Service Professor Emeritus, and two other former United States Attorneys General in Morrison v. Olson, a case concerning the constitutionality of the Independent Counsel provisions of the Ethics in Government Act. Also in April, he filed a brief in the Supreme Court on behalf of the National League of Cities and others, defending the constitutionality of an affirmative action program adopted by the City of Richmond, Virginia. At the end of April, Mr. Strauss was principal speaker at a program on the Constitution at the University of Wisconsin at LaCrosse. He gave a paper entitled “Equal Protection and the Urban ‘Underclass.’”

In January, Cass Sunstein, Professor of Law and Professor in the Department of Political Science and the College, gave two talks at the annual meeting of American law professors. The first talk dealt with questions of constitutional interpretation, the second with the relationship between feminism and traditional jurisprudence. In February, Mr. Sunstein delivered speeches at George Washington University and at Rutgers University. Both speeches involved revisions in the law of equal protection for the twenty-first century. In April, he participated in a conference at Georgetown University called “After the Bicentennial.” His paper dealt with proportional or group representation. In early June, Mr. Sunstein spoke at an interdisciplinary conference on community and liberty in Tucson, Arizona. His paper discussed the circumstances in which government might justifiably interfere with voluntary transactions.

Stephen Shaklofer

Stephen J. Shaklofer, Frank and Bernice J. Greenberg Professor of Law and Director of the Center for Studies in Criminal Justice, presented one of the principal papers at the annual meeting of the Egyptian Penal Law Association in Alexandria, Egypt, in April. His theme was “Protection of Human Rights in the Post-trial Phase of the American Criminal Case.”

Alan Sykes

Alan Sykes, Assistant Professor of Law, presented a paper entitled “The Proper Role of Countervailing Duties in U.S. Trade Policy” at the University of Michigan Law School's seminar on International Economic Law and Policy in March. In May, he presented a paper (co-author Professor Larry Kramer) on “Municipal Liability under 1983: A Legal and Economic Analysis” at the Harvard Law School Workshop in Law and Economics.
as necessary to combat foreign competition, and the planned Department of Justice Antitrust Guidelines for International Operations. On May 4, 1988, she gave another talk on the subject of International Joint Ventures and the Antitrust Laws, before a seminar sponsored by the World Trade Institute, again in Washington, D.C. The following week, she attended a seminar in Chicago on “Doing Business in Canada under the Canada/United States Free Trade Agreement.” From May 16 through May 21, Ms. Wood attended a conference in Rome on Law and Computers, which was organized by the Supreme Court of Cassation of Italy. She gave a paper entitled “Competition Law in the Computer Industry: A Study of Market Power and Its Abuse” before the “Production, Trade, and Finance” session, which considered the way in which market power should be evaluated in fast-moving, high-technology industries.

On February 23, Hans Zeisel, Professor Emeritus of Law and Sociology, addressed the Chicago Sociological Practice Association on “What to Do about Crime.” On this occasion he also received the Association’s annual Award for Outstanding Sociological Practice.

STUDENT NOTES

Law Review and Legal Forum

The Managing Board of volume 56 of The University of Chicago Law Review are: James Barry III, Editor-in-Chief; Mark Snyderman, Executive Editor; Dennis Black, Managing and Book Review Editor; John Duffy and Jacqueline Orellia, Articles Editors; Erik Geeter, Topics and Comments Editor; Katharine Baker, James Gauch, Alan Meese, Richard Murphy, and Drew Page, Comment Editors.

The Editorial Board for volume 1989 of The University of Chicago Legal Forum are: Renata Sos, Editor-in-Chief; Douglas Clark, Managing Editor; Paul Nelson and Susan Paulsrud, Research and Symposium Editors; Theodore Beutel and Jennifer Goldstein, Articles Editors; David Siegel,

L. to r.: Moot Court runners-up Beth Golden and Sean Smith; Robert Bork, Judge Patricia Wald, and Judge John Minor Wisdom; competition winners Katherine Henry and Samuel Wilkins

Senior Comment Editor; Michael Cicero, Robert Clothier, Andrew Ostrogna, and Roger Stern, Comment Editors.

Moot Court

In a closely fought contest, arguing the constitutionality of the so-called Special Prosecutor Act, Katherine Henry, class of 1989, and Samuel Wilkins III, class of 1988, narrowly defeated Beth Golden and Sean Smith, both class of 1988, in the 1988 Hinton Moot Court Competition on May 11. Henry and Wilkins won the Hinton Moot Court Cup and the Thomas J. Mulroy Awards for Excellence in Appellate Advocacy with Highest Distinction. Golden and Smith received the Karl Llewellyn Memorial Cup and the Thomas J. Mulroy Awards with Distinction. The judges were Chief Judge Patricia Wald of the U.S. Court of Appeals for the District of Columbia Circuit, Judge John Minor Wisdom of the U.S. Court of Appeals for the Fifth Circuit, and Robert Bork (J.D. '53), formerly judge of the U.S. Court of Appeals for the District of Columbia Circuit.

Honors and Awards

The following students of the Class of 1988 received their degrees with honors and were inducted into the Order of the Coif. Michael Annes, Marc Brenner, Christopher Eisgruber, Erin Enright, Hugh Hallman, Paul Heald, David Hurwitz, David Litt, Richard Nagareda, Stephen Ritchie, Brian Siewe, Andrew Smith, Sam Smith, Samuel Wilkins III, Michelle Wilson, Richard Wirtkin, David Wolsohn, and Ari Zymelman. The following students also received their degrees with honors: Edward Adams, John Baraniak, Jr., Scott Barash, Martin Black, Jeffrey Brauch, Joseph Brennan, Jonathan Bunge, Paul Eberhardt, Laurence Frishman, Joseph Gregor, Alison Humphrey, Philip Karmel, Rebecca Lederhouse, Lori Martin, Stuart Mills, Roger Moffitt, Robert Mowrey, Kathleen Murdock, Joel Neuman, Michelle Patzke, Gregory Poe, Marjorie Reifenberg, Adam Silver, Leslie Singer, Darin Snyder, Andrew Spiropoulos, Michael Vhay, Christopher Vicovic, Christina Wells, and Michael Yetnikoff.

Julie Bradlow, Andrew Patner, and Dean Schramm received the Ann Barber Outstanding Service Award, which goes to the third-year students who have made a particularly helpful contribution to the quality of life at the Law School. The Joseph Henry Beale Prize, for outstanding work in the first-year legal research and writing program was awarded to Ashutosh Bhagwat, William Davis, Bruce Doughty, Jacqueline Gerson, Andrea Neroi, and Henry Olsen III. The D. Francis Bustin Prize for the best
published comments was awarded to Paul Hesli, class of 1988, for his comment “Money Damages and Corrective Advertising: An Economic Analysis,” in volume 54 of The University of Chicago Law Review; to Gregory Mark, class of 1988, for his comment, “The Personification of the Business Corporation in American Law,” in volume 54 of the Law Review; and to James Rosenzweig, class of 1988, for his comment “State Prison Conditions and the Eighth Amendment: What Standard for Reform under Section 1983?” in the 1988 volume of The University of Chicago Legal Forum. Marc Brenner, class of 1988, was the 1987 winner of the Isaiah S. Dorfman Prize, for outstanding work in Labor Law; Rachel Heyman, class of 1988, won the prize for 1988. The Edwin F. Mandel Award, to the graduating students who have contributed most to the Law School's clinical education program, was awarded to John Knight and Adam Silver. Andrew Smith received the John M. Olin prize, for the outstanding graduate in Law and Economics. The Casper Platt Award, for the best paper written by a student in the Law School, was made to Michael Keane, class of 1988, for his paper “The Influence of the French Literary Critics on Critical Legal Studies.” Christopher Eisgruber received the Hyman M. Spector Award for excellent scholarship in the field of civil liberties.

Clerkships 1988–89

Fifty-one graduates of the Law School, a record number, have accepted judicial clerkships for 1988–89:

United States Supreme Court

Wendy Ackerma 87 (Justice Antonin Scalia)

Lindley Brenza 87 (Chief Justice William Rehnquist)

Richard Cordray 86 (Justice Anthony Kennedy)

Lisa Heinzerling 87 (Justice William Brennan)

Deborah Malamud 86 (Justice Harry Blackmun)

United States Courts of Appeals

Samuel Achen 87 (Judge Harrison Winter, 4th Cir.)

Edward Adams 88 (Judge Harvie Wilkinson III, 4th Cir.)

Scott Barash 88 (Judge Lanier Anderson III, 11th Cir.)

Jule Bradlow 88 (Judge Michael Kanne, 7th Cir.)

Joseph Brennan 88 (Judge Grady Jolly, 5th Cir.)

Jonathan Bunge 88 (Judge James Buckley, D.C. Cir.)

Christopher Eisgruber 88 (Judge Patrick Higginbotham, 5th Cir.)

Elin Enright 88 (Judge Stephen Williams, D.C. Cir.)

Todd Gaziano 88 (Judge Edith Jones, 5th Cir.)

Paul Heald 88 (Judge Frank Johnson, Jr., 11th Cir.)

Louis Hensler III 88 (Judge J. Edmonson, 11th Cir.)

Philip Karmel 88 (Judge Edward Becker, 3rd Cir.)

Peter Kennedy 88 (Judge Thomas Fairchild, 7th Cir.)

Diane Klotnia 87 (Judge Max Rosen, 3rd Cir.)

David Litt 88 (Judge Alfred Goodwin, 9th Cir.)

Mary Mace 88 (Judge Grady Jolly, 5th Cir.)

Gregory Mark 88 (Judge Bruce Selya, 1st Cir.)

Lori Martin 88 (Judge Eugene Davis, 5th Cir.)

Roger Moffitt 88 (Judge Stephen Anderson, 10th Cir.)

Kathy Murdock 88 (Judge William Bauer, 7th Cir.)

Richard Nagareda 88 (Judge Douglas Ginsburg, D.C. Cir.)

Joel Neuman 88 (Judge Joel Flaum, 7th Cir.)

Gregory Poe 88 (Judge Irving Goldberg, 5th Cir.)

Stephen Ritchie 88 (Judge James Buckley, D.C. Cir.)

Laura Shore 88 (Judge Robert Vance, 11th Cir.)

Andrew Spiropoulos 88 (Judge Danny Boggs, 6th Cir.)

Thomas Vita 88 (Judge Albert Engel, 6th Cir.)

Christina Wells 88 (Judge Lawrence Pierce, 5th Cir.)

Samuel Wilkinson III 88 (Judge Frank Easterbrook, 7th Cir.)

David Wolfsohn 88 (Judge Walter Stapleton, 3rd Cir.)

Art Zimmerman 88 (Judge Frank Easterbrook, 7th Cir.)

United States District Courts

Martin Black 88 (Judge Edward Cahn, E.D. PA)

Beth Boland 88 (Judge Milton Pollock, S.D. NY)

Leland Chait 88 (Judge George Arceneaux Jr., E.D. LA)

Catherine Fiske 88 (Judge Walter Skinner, MA)

Julie Justiz 88 (Judge Robert Hall, N.D. GA)

John Knight 88 (Judge Hubert Will, N.D. IL)

Michelle Patske 88 (Judge Paul Plunkett, N.D. IL)

Mary Rowland 88 (Judge Julian Cook, Jr., E.D. MI)

Dean Schramm 88 (Judge Brook Bartlett, W.D. MO)

Brian Sieve 88 (Judge Milton Shadur, N.D. IL)

Adam Silver 88 (Judge Kimba Wood, S.D. NY)

Michael Vhay 88 (Judge Brian Duff, N.D. IL)

United States Tax Court

Clifford Gross 88 (Judge Arthur Nims III, D.C.)

State Supreme Courts

Jeffrey Brauch 88 (Judge William Callow, WI)

Andrew Kayton 88 (Judge Charles Levin, MI)

Answers to Trivia

1. 1963.
3. 18,000.
5. Mortimer Adler became Associate Professor of Philosophy in 1930.
6. Phil Neal. The only one not a graduate of the Law School.
7. 555.
8. (a) 1927; (b) 1903; (c) 1973; (d) 1981, as a seminar.
9. Edward H. Levi, 48 years. (Blum = 32 years, Director = 39, Meltzer = 38.)
10. Two: the line of eleven jets and a center single spray.

Return to those golden years

May 10 Alumni Association Annual Dinner
May 12-13-14 Reunion Weekend
Alumni Notes

EVENTS

Annual Dinner and Reunion Weekend

On Thursday, May 5, 1988, 600 graduates and their guests gathered in the Grand Ballroom of the Chicago Hilton and Towers to enjoy the annual alumni dinner and renew old friendships. Presiding over the occasion was Howard R. Koven, J.D. '47, president of the University of Chicago Law School Alumni Association. After dinner, Dean Geoffrey R. Stone, J.D. '71, gave the Dean’s annual report on the state of the Law School, then made way for the speaker of the evening, Lloyd N. Cutler, a partner with the Washington, D.C., firm of Wilmer, Cutler & Pickering and former Counsel to the President. Mr. Cutler spoke on “The Modern Presidency.”

The annual dinner was, as always, the first event of Reunion Weekend, which this year celebrated the reunions of the classes of 1938, 1953, 1963, 1968, 1973, and 1983.

Because of their small number, the class of 1938, under the leadership of Irwin Askow and R. J. Stevens, limited their reunion to a private reception preceding the Annual Dinner. A quarter of the class met in the Joliet Room of the Hilton Hotel for cocktails and hors d'oeuvres before joining the rest of the alumni in the Grand Ballroom for dinner.

On Friday, May 6, alumni had the opportunity of attending afternoon classes at the Law School, followed by the traditional Friday afternoon Wine Mess. The classes of 1953 and 1983 enjoyed their own cocktail parties at that time. John Bowden welcomed the class of 1953 to his home while Todd Young hosted the class of 1983 in the party room of his building. Later that evening, a group of forty-four alumni and their guests attended the Second City revue, “Jean-Paul Sartre & Ringo.”

Saturday's events kicked off with a tour of the campus including the old Law School building. This was followed at 10:30 by a lively panel discussion on “Pornography and the First Amendment” with Professors Paul Bator, Mary Becker (J.D. '80), David Currie, and Cass Sunstein. The audience would probably have continued asking questions indefinitely, but for the need to adjourn to the Harold J. Green Lounge where Dean Stone and members of the faculty welcomed alumni to a reception and luncheon. After lunch, students from the classes of 1988, 1989, and 1990 presented vignettes from the 1988 student musical “Will of Fortune.” Later in the afternoon, Law Librarian Judith Wright welcomed alumni to the D’Angelo Law Library for champagne and guided tours of the library.

All five classes enjoyed reunion dinners on Saturday evening. The class of 1953 met at Jean Allard’s penthouse overlooking Lake Michigan. Twenty-nine percent of the class were able to attend. John Bowden, Ralph Mantynband, Robert Morton, Richard Stillerman, Merrill Freed, Robert Milnikel, and Jean Allard helped to make the event a success.

Panelists Mary Becker, Paul Bator, David Currie, and Cass Sunstein

Forty-six graduates (40 percent) from the class of 1963 were present in the Harold J. Green Lounge for a dinner celebrating their twenty-fifth anniversary. Special thanks go to Sandy Allison, Miriam Balanoff, Ronald Cope, David Crabb, Marvin Gittler, Arthur Matthews, Marc McSweeney, William O'Keefe, Russell Pelton, Charles Staley, Jack Wents, Gary Bengtson, Gene Godley, George Liebmann, Michael Marks, Robert Stevens, and Jack Greene for their help in organizing the weekend.

Hyde Park was a popular place for reunion dinners this year. The Class of 1968 gathered at Larry Bloom’s house and enjoyed dinner out of doors. Fireflies gave the garden a romantic glow. Thirty-two graduates attended the event. Richard Badger, Gordon Berry, Celeste Hammond, Ann Lousin, Lee Mitchell, Arthur Friedman, James Mann, Douglas Fuson, Danny Boggs, Darrell Johnson, and Dennis Sabbath deserve thanks for their organizing skills.

The Class of 1973 chose the Quadrangle Club as the venue for their reunion dinner. Twenty percent of the class attended. Roger Brice, Ellen Newcomer, Gerald Saltarelli, Marc Seidler, Ronald Peterson, Leland Hutchison, Donald McDougall, Daniel Pinkert, Marland Webb, David Ach-
tenberg, Jerold Goldberg, Douglas Kraus, John Phillips, and Henry Mohrman helped to make the weekend a success.

The only dinner held outside Hyde Park took place at Salvatore’s where the Class of 1983 dined and danced till the small hours. Denise Caplan, Pamela Meyerson, Barbara Miller, Gretchen Winter, and Todd Young deserve the credit for organizing the Law School’s first five-year reunion.

Loop Luncheons

The Loop Luncheon series continue to be very popular with alumni from the Chicago area. The Winter series began on January 21 in front of a sell-out crowd. Scott F. Tirow, a partner at Sonnenschein Carlin Nath & Rosenthal, gave a witty and interesting talk on “How I Became a Best Selling Novelist.” Mr. Tirow is the author of One L and Presumed Innocent. A lively question and answer session followed the talk.

On February 23, Norman Nachman, J.D. ’32, a partner at Winston and Strawn, spoke to a large audience on several topics in the area of bankruptcy, under the general heading of “A Bankruptcy Potpourri.” Such a wide field took time to cover and the interested audience lingered at the end to ask questions.

Allan Bloom, Professor of the Committee on Social Thought and the College at the University of Chicago and author of the best-selling and controversial book The Closing of the American Mind, gave a talk on “Liberal Education and Its Critics” on March 4. Mr. Bloom, who strongly favors a more traditional approach to education, struck a chord of sympathy with many members of the audience.

The Spring series began on April 5 with a scintillating talk by Dr. Mortimer Adler on “The Ninth Amendment,” in front of a large and fascinated audience.

Judge Ann C. Williams, of the U.S. District Court for the Northern District of Illinois, gave a talk entitled “Lawyer Credibility in Litigation” on April 28. Judge Williams discussed the courtroom experience from the judge’s perspective and gave some points on how lawyers can help judges to do the best possible job. She reminded the audience that judges talk among themselves and that uncooperative lawyers are soon well known.

On May 17, in a lecture entitled “The Fourth Commandment and the First Amendment: A Worthy Tradition by Harry Kalven, Jr.,” Jamie Kalven described to a large audience how he had taken on the massive task of editing and completing the manuscript his father had been working on at his untimely death in 1974. (See Spring 1988 issue of The Law School Record, pages 4–11, for excerpts from A Worthy Tradition: Freedom of Speech in America.) Mr. Kalven’s often moving talk was followed by a lively question and answer session.

The 1987–88 season of Loop Luncheons came to a close on June 2 with an address by Bernard D. Meltzer, Distinguished Service Professor Emeritus of Law, entitled “A Baseball Umpire’s Career,” which dealt with the problems of baseball arbitration. Before the talk began, a member of the audience suggested that as the topic was baseball, popcorn seemed appropriate. Supplies of popcorn were rapidly brought in and were a great hit.

The Loop Luncheons are sponsored by the Chicago Chapter of the Law School Alumni Association and are held in the Board of Trustees’ Room at One First National Plaza, Suite 2716. Alan Oreschel (J.D. ’64) is chair of the organizing committee. If you would like more information about the luncheons or are interested in volunteering your services to the Loop Luncheon Committee, please contact Assistant Dean Holly Davis (312/702-9628).

Alumnae/Student Luncheon

Carol Moseley Braun, J.D. ’72, Assistant Majority Leader of the Illinois State House of Representatives and candidate for Cook County Recorder of Deeds, spoke on “Women in Politics: Local, State and National” on April 8 at the annual Alumnae/Student Luncheon. This event provides an opportunity for alumnae to meet women currently attending the Law School and to renew friendships with other alumnae.

Dean Stone Meets Alumni

Roland Brandel, J.D. ’66, president of the San Francisco chapter, was the organizer of a luncheon on January 26 this year. Alumni were invited to meet with Dean Geoffrey Stone, J.D. ’71, and hear his report on the current state of the Law School and plans for the future. Staying on the West Coast, Dean Stone traveled down to Los Angeles for a luncheon on January 28 with alumni from the Los Angeles area. Neal Millard, J.D. ’72, hosted the luncheon in the conference room of his firm, Jones, Day, Reavis & Pogue.

Joel Bernstein, J.D. ’69, president of the Los Angeles chapter, introduced Dean Stone, who spoke about the Law School.

In April, Dean Stone traveled south and west to meet with alumni. He spoke at a luncheon in Houston on April 18, attended by about 30 percent of alumni from the area. Mont Hoyt, J.D. ’68, president of the Houston chapter, introduced Dean Stone. The next day, Dean Stone was in Dallas for a luncheon hosted by James Donohoe, J.D. ’62, president of the Dallas chapter, before flying on to Denver on April 20 to meet alumni at a luncheon in the offices of Sherman & Howard (kindly made available by James Hautzinger, J.D. ’61). Edward Roche, J.D. ’76, president of the Denver chapter, organized the event and introduced Dean Stone.

Graduates on the East Coast had the opportunity to hear Dean Stone speak later in the Spring. David Tatel, J.D. ’66, made available the conference room of his firm, Hogan & Hartson, in Washington, D.C. for a luncheon on May 23. Michael Nussbaum, J.D. ’61, president of the Washington chapter, introduced Dean Stone, who spoke to a full house on “The Responsibilities of a Free Press.” On June 7, New York graduates heard about the latest happenings at the Law School when Dean Stone spoke at a luncheon organized by Douglas Kraus, J.D. ’73, president of the New York chapter, at his firm, Skadden Arps Slate Meagher & Flom.

Faculty Talk

Alumni gathered in Miami on January 8 for a luncheon and to hear Assistant Professor Larry Kramer, J.D. ’84, speak about “New Wave Scholarship.” Paul Stokes, J.D. ’71, of the Miami Chapter organized the event.
Class Notes Section – REDACTED

for issues of privacy
AALS Reception

Graduates and friends of the Law School in teaching were invited to join Dean Geoffrey R. Stone, J.D. '71 and other members of the faculty attending the Association of American Law Schools Meeting in Miami at a reception on January 9. Professors Walter J. Blum, J.D. '41, Gary Palm, J.D. '67, and Larry Kramer, J.D. '84, were present, as were Professors Judith Resnik and Dennis Curtis, who are visiting professors at the Law School this quarter.

CLASS NOTES

27 Morton John Barnard was honored by the Illinois State Bar Association on June 24, when he received its Board of Governors Award. This award recognizes lawyers and non-lawyers for exemplary service or meritorious deeds that significantly advance the administration of justice or the goals of the profession or the association.

33 Since 1969, William Danforth has been summarizing the significant opinions of the Minnesota Supreme Court and Court of Appeals for publication in The Bench & Bar of Minnesota. Although it consumes most of his weekends, he performs the arduous task of summarizing all the opinions of the previous week and summarizing about half of them as a labor of love and service to his fellow lawyers. Subscribers to Bench & Bar eagerly turn to the Judicial Law column to make sure they have not missed anything in their own reading of opinions.

34 Kenneth Prince was the moderator at a seminar in June on Enhancing the Effectiveness of the Business Attorney-Adviser, sponsored by the Illinois Institute for Continuing Legal Education.

36 The 1988 Gold Medal of the International Visitors Center of Chicago has been awarded to William Graham for his contribution to world culture. As Senior Chairman of Baxter Travenol Laboratories, Inc., Mr. Graham has played a major role in establishing Chicago as a city of international culture and commerce.

Fried Receives Citation

Herbert Fried, J.D. 1932, received the University of Chicago's Public Service Citation at the University's reunion weekend, June 4, 1988. The citation is awarded to those who have fulfilled the obligations of their education through creative citizenship and leadership in voluntary service.

After retiring as Chairman of the Board of Charles Levy Circulating Company, Mr. Fried took on a new career of service to the Law School. He first worked in the Mandel Legal Aid Clinic and then became Director of Placement. He created and maintained the placement office as a separate activity, bringing it into the twentieth century with the installation of a computer system. He spent countless hours advising students and graduates of the Law School on their career choices. He has been president of the Law School's National Alumni Association and a member of the Capital Campaign Planning Committee. He also serves as the Law School's representative on the Alumni Executive Council.

Mr. Fried directed the Chicago Bar Association's pro bono recruitment program for three years, during which time he increased the number of lawyers serving the indigent from a few hundred to more than one thousand. Most recently, he has helped the Vietnamese community to start up small businesses and continues to head the Bar Association's special career counseling program.

While we’re out on the Pacific, I received a note from Minoru Shibuara, with a picture. He is now retired and is the adviser to Japan’s Food Service Company, Ltd., in Narito. That's where the new Tokyo International Airport is located. His wife, Shigeko, operates the Japanese Music School of Koto, which focuses on the Japanese harp. (I’ve heard several performances on this instrument, which is quite beautiful.) He says his son Ben is associated with Kawasaki Heavy Industry Company Ltd. as an aircraft manufacturing engineer. The question is, can we get a discount on a motorcycle, Minoru? To keep even more busy, he’s secretary of the Narita Unesco Association and is a member of the Rotary Club there. (Rotary is something we share in common.) He’s been to the Pacific and with twelve long years in Congress, she is an all-star, super qualified candidate. Anyone wishing to contribute to her campaign can reach her at P.O. Box 31245, Honolulu, HI 96820.

51 Class Correspondent: Charles Russ, 1820 West 91st Place, Kansas City, MO 64114.

Patsy Mink is now running for Mayor of Honolulu. She's been the chair of the Honolulu City Council and in that capacity helped reconstruct the sewer tunnel underneath the city, pushed a big housing project and lots of other things. Her campaign brochure is in living color and it looks spectacular. I hope she sends all of you a copy of it. As the author of the U.S. House Resolution that called for the halt of testing the hydrogen bomb in the Pacific and with twelve long years in Congress, she is an all-star, super qualified candidate. Anyone wishing to contribute to her campaign can reach her at P.O. Box 31245, Honolulu, HI 96820.

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Krane Is New University of Chicago Trustee

Howard G. Krane, J.D. '57, a partner in the Chicago law firm of Kirkland and Ellis, has been elected to the Board of Trustees of the University of Chicago. Mr. Krane is a Lecturer in Law and a regular participant in the Law School's annual Tax Conference. He also served as chair of the recent Law School Capital Campaign. Mr. Krane is a consultant to the American Law Institute's continuing Income Tax Project and is a member of two of its subsections.

Other University Trustees who are Law School graduates include Norton Clapp, J.D. '29, James H. Evans, J.D. '48, William B. Graham, J.D. '36, Elmer W. Johnson, J.D. '57, Edward Breen, J.D. '65, and Howard G. Krane, J.D. '35.

Our Political Classmates: Carol Silver is running for her fourth term to the San Francisco Board of Supervisors, having started her first term more than a decade ago. Carol is also the president of the Golden Gate Bridge and a founder of the Chinese American International School in San Francisco.

Our Professorial Types: Fred Schneider was honored by the graduating class of Chase College of Law by receiving the Lukowsky Award as the Outstanding Law Professor and Dave Paulsen was selected the Outstanding Teacher in the Philosophy Department in both 1987 and 1988 at Brigham Young University in Provo, Utah.

The Idyllic Life: Ken Rekow lives on a farm on Bainbridge Island in Puget Sound, develops real estate as a hobby, and travels to his labor and employment law practice in Seattle on a Washington State ferry.

Also on the West Coast: Ed Burgh moved from Chicago to the Los Angeles area to open a firm to provide tax and operational consulting to the insurance industry. He will shortly be licensed as a C.P.A. in California and he continues to speak at seminars on tax issues.

Marty Sherman completed his first year as corporate counsel of Amgen, Inc. in Thousand Oaks, California. Amgen is a premier biotechnology company.

And a Word about our Spouses: Ed Kitch reports that Alison (J.D. Virginia, 1986) is an associate at the Charlottesville firm of Michie, Hamlett, Donato and Lowry. Warren Lehman's wife of thirty-five years, Mary Wooster, died in spring, 1987. Warren married Patricia Andrews in August this year and is taking leave from the University of Wisconsin during the 1988-89 academic year to be the Scholar in Residence at Washington & Lee University.

Isn't it a Coincidence? Steve Slavin's daughter, Joan, and Mitch Shapiro's son, Greg, are both entering the Harvard Law School this fall.

It Won't Fit Anywhere Else: Curt Turner was promoted to Vice President at Federal Reserve Bank of Boston last year. Jack Daniels left a large firm and started the firm of Sanchez & Daniels, now five lawyers, and is engaged in civil trial practice in Chicago. His daughter, Beth, graduated from Northwestern in 1987. Steve finished his masters in journalism at Medill in the summer of 1988 and Jack's younger daughter, Becca, just completed her freshman year at the University of Michigan in theater. Lillian Kraemer continues to head the Bankruptcy/Workout Department at Simpson Thatcher & Bartlett and traveled to eastern Europe this past spring.
Patner Publishes

Andrew Patner, J.D. ’88, did not graduate until the summer quarter this year, not because he was an idle student, but because a national tour last spring to promote his newly-published book ate into his study time. Patner’s book, J.F. Stone: a Portrait, published by Pantheon Books last February, records the life and career of the radical, anti-establishment journalist, best known for “I.F. Stone’s Weekly”, a newspaper he published and edited from the fifties until 1971. The book is a distillation of interviews Patner had with Stone in 1984 and 1987.

Patner began his undergraduate education at the University of Chicago where he was editor-in-chief of the Manon. He broke off his studies to join Chicago Magazine as political editor, the youngest editor ever employed by the magazine. He finished his B.A. in history at the University of Wisconsin at Madison. The book on J.F. Stone grew out of research for a paper in Patner’s senior year. Patner is already working on his next book on Black and Hispanic politics. He will be concentrating on his writing for the next year or so but hopes to do some part-time teaching, preferably constitutional law at an undergraduate level. He is also considering law practice for a not-for-profit institution. “I have always been interested in law practice, writing, and teaching,” he says. “I’m now just trying to work out whether I can do them all at once or in succession.”

lowski, and the Kaufmans—Dan and Amy Rosenfeld—Shy. Perry Jack Schwachman, who asked not to be named here, enjoying the good life at Lord Bissell & Brook… Vacations you wish you went on: Larry Hui and Fred Ansell toured Europe together after their respective clerkships ended… Mike Rissman in D.C. with Wilmer Cutler… David Blake and his lovely wife Stephanie are the proud (and recent) parents of Hanna, a bouncing baby girl not named after Hanna Holborn Gray, but rather a Houston sportscaster… Tracy Klestadt is married.


Bruce Melton and Kevin O’Brien have both joined the firm of Butler, Rubin, Newcomer, Saltarelli & Boyd in Chicago.

Mark Kende has joined the firm of Davis Barnhill & Galland in Chicago after clerking in Detroit for Judge Julian Cook and teaching constitutional law at the University of Detroit.

87 Class Correspondent: Stephanie Leider, Butler, Rubin, Newcomer, Saltarelli & Boyd, Three First National Plaza, Suite 1505, Chicago, IL 60602.

Chicago’s Santa Fe Bar & Grill was the site of an impromptu reunion when Eric Altholsz, Mary McQuillen, and Mo Sheely came to town and met up with Steve Tantillo.

Peggy Harari balances spurts of intense work at Gibson, Dunn & Crutcher in L.A. with spurts of serious play. (She was off to Scandinavia or the U.S.S.R. this summer.) Peggy sees the Chicago crew often—and regularly bumps into Matt Mook at 7:03 p.m. in the parking garage.

Cathy Forrest was promoted months ago to the position of Supervisor in the Appellate Section of the Illinois State’s Attorney Office; she’s made quite a few appellate arguments already, putting one defendant away for over 85 years! Brenda Swierenga has moved to Chicago’s Sonnenschein, Carlin, Nath & Rosenthal.

Our very own Myron Orfield is cited repeatedly by Michigan criminal law guru Yale Kamisar in the latter’s recent piece on the Exclusionary Rule. Seems the two have been corresponding. Myron’s interviews with the Chicago narcotics squad, documented in his comment “The Exclusionary Rule and Deterrence: An Empirical Study of Chicago Narcotics Officers,” 54 U. Chi. L. Rev. 1016 (1987), have also been referred to in the Washington Post and Newsweek.

After Judge McGowan passed away in December, Brad Campbell worked with some of the other judges on the D.C. Court of Appeals and then joined the chambers of District Court Judge Thomas A. Flannery (who tried the Lyn Nofziger case). Brad will be with Rogovin, Huge, and Schiller in D.C. (after a sail?) this fall.

After rowing with the Ann Arbor Rowing Club and relaxing on Cape Cod, Tom Jacobs will do telecommunications work in the Chicago office of Skadden, Arps. Cathy Torgerson and Bruce Herzfelder will join Liz Schriever at Davis, Polk & Wardwell in New York. Ruth Ernst (who has truly been traveling the 6th Circuit with Judge Boggis) will litigate for Ross, Dixon & Mashback in D.C. Joel Levinson will stay in Philly and join Sue Oppenheimer at Dechert, Price & Rhoads.

Rob Ryland will move to D.C. to work for the Washington office of Kirkland & Ellis. Diane Klotz will begin clerking for Third Circuit Judge Max Rosenn.

FYI: David Lyon’s The Runaway Duck is now available in paperback; he did the writing and illustrations.

Rich Nikitchevich and Ann Johnston were married in Evanston on March 12. Oscar David and Larry Hsieh were groomsmen, and Steve Tantillo provided a reading.

Julia Henick attended the garden wedding of Cindy Zimmerman and Mark Dubin (M.D. ’88) in Los Angeles over Memorial Day weekend.

Sam Ach married Cathy Zinke on June 11 in a beautiful courtyard over-
looking the Hudson River in Tarrytown, N.Y., with half of Amherst College's alumni (including Brad Campbell and groomsman Rob Spencer) looking on. After honeymooning in Barbados, fishing in Canada, and a little work in Chicago, Sam has begun clerking for Fourth Circuit Judge Harrison L. Winter in Baltimore.

Erica Landsberg married Larry Lawrence in June on Long Island. Erica recently “reunited” in Greektown with the Mandel Clinic crew, including Mike Alter, Steve Reiches, Ira Belcove, and Jim Kole (who has joined Sidley & Austin after clerking for former Judge Getzendamer and a state court judge).

Keungsuk Kim, Scott Wallace (J.D/M.B.A. ’88), Carolyn Schurr, Rose Burke, and Mike Salmanson ('86) attended the Long Island wedding of Kerri Appel and Steve Siegel on June 12.

Belated news: Jenny and Greg Garner were married in Denver in summer 1987, after the bar.

Lots of babies! Stacy Powell-Bennett gave birth to Joshua Mathew. Andi Paley writes that Amy and Tom Spence welcomed Kenneth Alexander, a “brand-new deduction on tax day” into the world on April 15. Steve Tantillo will be long distance godfather to the small Spence. In June, Kris and Brian Duve had a baby boy. And on June 21, Katherine Elizabeth made Elizabeth and David Haselkorn happy parents.

Tom Berg says that he enjoyed his clerkship, although Baton Rouge “is economically depressed right now, as its three largest employers are state government, Exxon and Jimmy Swaggert—all of which are in trouble financially or otherwise.” Tom has toured the south, including a souvenir-collecting pilgrimage to Graceland. Tom joined Mayer, Brown & Platt in Chicago this fall.

Amy Kossow took the Maryland Bar with Stuart Feldstein and Robert Shapiro and is now happily pursuing a masters in theater (acting) at Catholic University. She teaches street law to inner-city D.C. high school kids on the side.

Maureen Kane has caroused with various Fifth Circuit types in New Orleans: Tom Berg, Robert Shapiro (who is off to Akin, Gump’s D.C. office), Eric Webber (who is leaving his classy pad in the French Quarter to start at Munger, Tolles & Olson in L.A.), Ted Janger (who will await “the final quack of the lame duck” at Wilmer, Cutler & Pickering in D.C.), and James Brock ('86). She also ran into Ed Fuhr during her Louisiana travels. Maureen will return to Chicago and join Kirkland & Ellis.

I am now back in Chicago after an indescribable year in Michigan. (It's a novel waiting to happen.) A special thanks to those of you who filled my mailbox. Please continue to send me your news!

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**DEATHS**

The Law School Record notes with sorrow the deaths of:

- **1949**
  - Irving Liberman
  - October 29, 1987

- **1952**
  - Lowell Jacobson
  - January 12, 1988

- **1955**
  - Stanley A. Durka
  - July 9, 1988

- **1970**
  - Francis E. Vergata
  - June 24, 1988

**Faculty**

- **James E. Beardsley**
  - Associate Professor of Law, 1974–76
  - June 10, 1988