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Professor Richard A. Epstein acts as auctioneer at Law Students Association's Charity Auction.

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In a 1987 article entitled “Why Deans Quit,” Paul Carrington, former dean of Duke Law School, described the role of a law school dean as “that of community fireplug.” Among the many problems faced by the dean, Carrington pointed in particular to the limited support a law dean ordinarily “will receive from university leadership.” Certainly, my many conversations with colleagues at other institutions confirm this observation. I have often heard deans of other law schools lament the constant strain of their relations with the “university leadership.”

I am pleased to say that, for at least the last fifteen years, this has not been so at the University of Chicago. From the very outset of her tenure as President, Hanna Gray has recognized that the University of Chicago’s Law School is one of the jewels in the University’s crown. She has at every turn given generously of her time, her energy and her counsel. When the Law School needed her blessing to expand the faculty, Hanna was there. When the Law School needed her support to enlarge the D’Angelo Law Library, Hanna was there. When the Law School needed her approval for additional student financial aid and higher faculty salaries, Hanna was there. When the Law School needed her advocacy to amend the University’s statutes to establish the new title “Clinical Professor of Law,” Hanna was there.

Due in large measure to Hanna’s enthusiastic and always gracious support, the University of Chicago Law School is a stronger institution today than it was when she assumed the presidency fifteen years ago. In her own, uniquely clear and defined vision of the central role of legal education and scholarship in a university community, she has remained true to the vision of William Rainey Harper, Robert Maynard Hutchins and Edward Levi. She has left a legacy for which the students, faculty, alumni and friends of our Law School will forever be grateful.

Thanks, Hanna.
All these disciplines interact with and enrich the study of law at the University of Chicago Law School.

By Catherine Lange

"There's nothing irrelevant to a legal education. There's nothing irrelevant to the practice of law," states Richard A. Epstein, James Parker Hall Distinguished Service Professor of Law.

The fact that the University of Chicago Law School has always been "less wedded to the idea of law as an autonomous discipline" is one of its strengths, says Geoffrey P. Miller, Kirkland & Ellis Professor of Law. Even before the establishment of the Law School in 1902, people such as Ernst Freund, a political science professor appointed in 1894, insisted that law was already being taught at the University—in such political science offerings as federal government, law of municipal corporations, Roman law, and history and elements of the law of property. Law-related courses also existed within the new University's Department of Sociology and its College of Commerce and Administration.

The founding of the Law School did not isolate it from these other disciplines. Rather, it sought then—as it does now—to learn from them, following a vision defined by the University's first president, William Rainey Harper, in stressing the relationships between law and other social studies and the interaction of law with its social and human context.

Today's Law School curriculum requires students to take a prescribed first-year program covering five principal areas of law—contracts, torts, property, criminal law, and civil procedure. Beyond the first year, though, all courses (other than the required course on The Legal Profession) are elective.

This is not to say, however, that the Law School does not have a strong expectation that virtually all students will take a core group of upper-level courses. To the contrary, as Dean Geoffrey Stone '71 observes, "the vast majority of our students take Administrative Law, Constitutional Law, Corporation Law, Evidence, Taxation, Federal Jurisdiction and a fairly long list of courses that any lawyer should take in order to be a literate member of the profession. We are, after all, a law school." Dean Stone adds that the interdisciplinary courses are designed to be "enriching and to give perspective."

"A University School of Law is far more than a training institute for admission to the bar. It implies a scientific knowledge of law and of legal and juristic methods. But these are the crystallization of ages of human progress. They cannot be understood in their entirety without a clear comprehension of the historic forces of which they are the product, and of the social environment with which they are in living contact. A scientific study of law involves the related sciences of history, economics, philosophy—the whole field of man as a social being."

—William Rainey Harper
"Law students come into my course extraordinarily confident that they know all about how courts work," notes Mr. Rosenberg. "We spend some time thinking about whether courts are any good at making social policy. Many cases over the last two decades have raised the issue of how ought we as a society deal with our prison systems, with racial segregation in our schools, with mental health institutions, and so on. It never occurs to law students to ask, are courts any good at doing this?"

"In the beginning, law students fight with the literature. Then, toward the middle of the course, they begin to struggle with the weight of mounting evidence. Toward the end of the quarter, they reintegrate their thinking about what they previously assumed about courts."

Gil Burstiner ’93, who took the Law and Politics seminar last fall, says of Mr. Rosenberg, "I was constantly in tension with him. I took the role in class as one of the defenders of the 'holiness' of the Law. In every paper, I would take a position of defending the legal system against his social science attacks. In the end," says Mr. Burstiner, "I realized that a lot of my presuppositions weren't as clear as I once thought."

Law and International Relations

"Where disciplines have different structures, the common meeting ground is the common problem," said Edward H. Levi ’35 in his Talks on Legal Education. In the area of international relations, international lawyers and political scientists "are equally concerned with the international system—how it operates and to what extent it can be regulated," says Anne-Marie Burley, newly tenured Professor of Law, who has a Ph.D. in political science from Oxford as well as a J.D. from Harvard. "They think about it from different perspectives, but in the end it's shortsighted to think that you could do one discipline without taking into account the insights of the other."

"One of the keys to interdisciplinary work is not to be merely a consumer of the literature of the other discipline, but to understand the vantage point from which it's produced," says Ms. Burley. "To do this, I give my students whatever political science data they need, and then I
push them to rethink the legal doctrines in light of that information."

Ms. Burley teaches Law and International Relations: The European Court of Justice, which she describes as "an attempt to look at the European Court of Justice from the perspective of international relations theory, integration theory, and comparative political theory to see how the court functions as an agent, not of legal integration, but of political integration. It's a political perspective on law."

Constitutionalism in Eastern Europe. 554. (Seminar.) This seminar will consider the current state of constitution making in Central-Eastern Europe and the ex-USSR. Emphasis will be placed on the political processes of bargaining and arguing that produce one sort of constitutional outcome rather than another. The new constitutions of Bulgaria and Romania will be analyzed in detail, as will various draft constitutions from Poland, the Ukraine, and so forth. Attention will also be paid to emergent patterns in executive-legislative relations, judicial review, and the mixture of positive and negative rights. Aut (3). Mr. Holmes and Mr. Elster.

Law and History

f what conceivable utility is legal history to a lawyer, for example, who's trying to give tax advice? The obvious answer is that there is none directly," says Dennis J. Hutchinson, Senior Lecturer in Law and Associate Professor in the College.

"Now, does that mean that what I do is irrelevant," asks Mr. Hutchinson, whose work focuses on the institutional behavior of American courts, and the Supreme Court in particular, over the last fifty years.

"Perhaps it does, and it may mean what Dick Helmholz, Ruth Wyatt Rosenson Professor of Law and Director of the Legal History Program, does is even more irrelevant, by a factor of 400 years. He's trying to determine the influence of Canon Law in the ecclesiastical courts in the Middle Ages on the development of English common law, which is, as we know, the model that the American common law takes off from.

"What legal history does," says Mr. Hutchinson, "is make us consider law in its larger sense, as situated within a culture." Richard Ross, newly appointed Assistant Professor of Law, adds, "If you are asking broader questions—for instance, why is the tax code structured as it is, why do we have taxation in the first place, or how have people in different societies and times thought about taxation, then history becomes important."

Mr. Ross points out that American legal history in the last thirty years has moved away from looking at institutional and doctrinal history, "which had been the bread-and-butter of legal history for centuries" to looking at law's presence more broadly within society.

The topics that interest legal historians today, he says, include the social and economic roots of legal change, especially at the local level; how legal institutions construct authority; race and gender issues; and the historical roots of oppression of certain groups, as well as the accommodations, mediated, and resistance that certain groups have made to the law. Of late, within legal history," says Mr. Ross, "there's been an interdisciplinary move, drawing on law and society scholarship, on theories

Law and Government

The Law and Government Program sponsored a series of workshops a few years ago which looked at developments in Eastern Europe following the collapse of communism. "It turned out the workshops just scratched the surface," says Michael W. McConnell '79, Professor of Law, Director of the Law and Government Program, and Co-director of the Center for the Study of Constitutionalism in Eastern Europe.

"This was one of the truly historic events of our lifetime." Consequently, the Law and Government Program instituted the Center for the Study of Constitutionalism in Eastern Europe.

Mr. McConnell, a scholar of constitutional law, observes, "It is most interesting to see the process of countries evolving their constitutional structures—how they go about making the kinds of key decisions that were made for us over 200 years ago. Certainly, this is a field in which lawyers do not have a monopoly of understanding.

"One of the problems Americans have in analyzing developments in Eastern Europe is the tendency to ignore the region's history, sociology, and cultural divisions." However, says Mr. McConnell, "People who know a lot about the societies but not very much about constitutional structure are at sea as well. Oftentimes, they have an idea about how things ought to be done without being aware of the ways in which these structures can go awry."

For example, he says, "Most Eastern Europeans assume that proportional representation is the more democratic and better system. Yet there are powerful reasons to think that, especially in societies where you have so many social divisions, proportional representation would perpetuate conflict and would be exactly what you don't want. We're trying to stimulate scholarly discussion of these kinds of questions."

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of interpretation coming out of literary studies, and on cultural anthropology.”

Law and Feminism

“A feminist analysis of law tends to be interdisciplinary,” says Mary E. Becker ’80, Professor of Law. “As you move beyond considerations of formal equality, you see that the ways in which law discriminates against women is more subtle,” says Ms. Becker. “You then need to bring in perspectives other than law.”

For instance, in her course, Feminist Approaches to Legal Issues, readings include material from psychoanalytic feminism, sociological studies of the allocation of labor within the family, and feminist political theory. The course presents approaches offered by various leading feminists within the legal academy.

Feminism also plays a role in other classes at the Law School. For example, in Elements of the Law, Cass R. Sunstein, Karl L. Llewellyn Professor of Jurisprudence, introduces feminist readings, along with other approaches to law (including critical legal studies, social contract theory, and law and economics). Mr. Sunstein discusses the feminist attack on pornography in his Free Speech course and raises ideas about what sex equality entails in his Equal Protection course.

In his Contracts course, says Laurence Lessig, Assistant Professor of Law, the objective is “to look at the issues by taking different perspectives—an economic perspective, a perspective of justice. Feminism, or examining gender assumptions, helps to make sense of the material.”

Law and Business

Interaction is the word Dennis Carlton, Professor of Business Economics in the Graduate School of Business, stresses when talking about crosslisted courses.

“The class in which there is the most interaction among mixes of students is one that makes an interdisciplinary subject truly interdisciplinary,” says Mr. Carlton. “For example, if I’m teaching a course in corporate finance in the Law School, some of the Business School students in the class may be more apprised of some of the more important recent developments in finance while law students might be more apprised of where the latest litigation is occurring.”

Mr. Carlton says that the key is “to get participation from both viewpoints. You pose a question. You hear how the economist answers it, and then you hear how the lawyer answers it. Then you ask people’s reactions to each other’s answers. What have they left out? What have you left out?

“Different disciplines stress different things,” he says. “The answer that emerges from such interdisciplinary dialogue is a better answer than the answer from one discipline alone. There’s a real interchange of ideas. They learn from each other.”

Law and Public Policy

Evelyn Brodkin, Associate Professor, School of Social Service Administration, has taught Politics of Welfare in the Law School since 1989. “Students indicate by entering this class that they want an opportunity to think about problems of a just society, social welfare, and poverty in a constructive way,” says Ms. Brodkin. “They are introduced to analytical tools from a discipline that are very different from the sort of analytical tools they’ve become accustomed to working with in Law School.”

Many of the students in her class, she says, work in the Mandel Legal Aid Clinic and “are trying to make sense out of what might otherwise look like distinct or unique experiences. What I try to do,” she says, “is introduce them to ways of thinking about the system.”

Recently, Ms. Brodkin notes, she sees “Law School students who clearly have a deep commitment to social issues and are looking for ways to act on that commitment.”
She admits that "those avenues in recent years have been limited" but emphasizes that "it's an important search." [See "Creating Career Options in Public Service" on page 16.]

"These are students who are apt to have an opportunity to make a social impact in a variety of ways. So, I think it's quite valuable for them to have a broader social perspective as part of their training."

**Law and Religion**

When Michael Fishbane, Nathan Cummings Professor of Jewish Studies in the Divinity School, first met Mr. Epstein and Mr. Miller in the Law School, he says he was "both surprised and delighted" that they had read his work.

"So much of the Jewish tradition is, in fact, a legal tradition," says Mr. Fishbane. He notes that teaching Jewish Law within a law school creates "the kind of nexus" in which Jewish law has developed historically—interacting since antiquity with many other legal traditions, including those of Mesopotamia, Greece, and Rome.

Mr. Fishbane hopes to dispel any notion that "people in antiquity did not think subtly or carefully. I thought it would be important for students to realize the contribution of Jewish civilization to law and to see the power and diversity of legal thinking in antiquity," he says.

"The focus of this course will be very different from others I teach for professionals in Jewish studies," says Mr. Fishbane. "Normally, the focus would be on the philological, technical side, with a close comparison of very small sections—in the original languages." In the Law School, he will discuss translated texts which raise "much larger questions, at a higher level of philosophical importance." Topics will include slavery, deposits, rights, boundaries of property, and the notion of the person.

**Law and Economics**

On the first day of class last fall, students enrolled in Price Theory greeted their professor with a standing ovation. Gary S. Becker, University Professor, Departments of Economics and Sociology, had just been named recipient of the 1992 Nobel Memorial Prize in Economics. His response, says Douglas Cole '93, was, "Quiet down... I'm not any smarter or brighter than I was a week ago."

Mr. Becker proceeded to begin instructing the students in the area which he pioneered—applying traditional economic tools, such as utility analysis, to real-life situations involving families, marriage, education, and crime. For example, says Mr. Cole, "One of the questions on the final exam dealt with how you would expect the divorce rate to vary under two different legal rules in family law."

Mr. Cole says, "We learned more about things that many Law School professors have been alluding to. We took a partial differential calculus-based approach to utility analysis—a very rigorous, in-depth mathematical approach—and learned really how to use that."

"I don't dream of a world in which all law professors use math," says Douglas G. Baird, Harry A. Bigelow Professor of Law and Director of the Law and Economics Program. However, he says, when you "extend your ability to go beyond technical barriers, you can then choose to do what you want with law and economics."

Randal C. Picker '85, Professor of Law, who holds both a masters degree in economics and a law degree, says he thinks of himself and his colleagues in law and economics as scientists. "We run experiments, come up with new ideas, revise our theories." He adds, "To be truthful, I think of this like baseball. If you're a 300 hitter, you're an all star. Well, if you throw out ten ideas, and three of them turn out to be good ideas, you're an all star in this business."

Mr. Picker notes a current experiment, which includes a seminar in Game Theory and the Law, which he co taught last fall with Mr. Baird; William M. Landes, Clifton R. Musser Professor of Law and Economics; and Robert Gertner, Associate Professor, Graduate School of Business. Game theory, says Mr. Picker, incorporates "the next generation tools of law and economics." [See "Law and Economics II: The Sequel," beginning on page 10.]

The two fields provide "an interesting mesh," he says. "Economics often tends to be abstract, but it also has an undisciplined quality about it." Law, on the other hand, "forces you to deal with real facts, real situations, real cases. A judge can't say, well, let's assume x, y, and z. The judge has to make a decision, and that has a disciplining quality."
Interdisciplinary environment

"When others were talking about interdisciplinary study, this Law School did it," says Norval Morris, Julius Kreeger Professor of Law and Criminology. "It is genuine scholarly curiosity that leads us."

Individual interests of members of the faculty, says Mr. Morris, help to define the presence of other disciplines within the Law School. For instance, he says, Hans Zeisel, former Professor Emeritus in Law and Sociology, "indulged his interest in the jury, the death penalty, and research methodology." He adds, "I have indulged my interest in problems of punishment," and notes that teaching in the core subjects is enriched by faculty's work in other areas.

"As long as you're interested in what other people are doing, you'll find a way to incorporate it into your own work," says Mr. Epstein. "One of the mistakes people make is to think that interdisciplinary work requires that you be on the cutting edge of two disciplines simultaneously. I don't think anybody can stay there very long."

"What you have to do is try to be at the edge of your discipline, and push it forward on the strength of some reasonably well understood principles in some other discipline."

Ronald H. Coase, Clifton R. Musser Professor Emeritus of Economics and recipient of the 1991 Nobel Memorial Prize in Economics, adds that the interdisciplinary environment at the Law School is "a reflection of the character of the University. It is very easy for someone who wants to do something in another department to move into it. The Law School does in its own sphere what is general in the University."

"It is also true," says Mr. Coase, "that lawyers feel competent in talking about everything. They move very easily from one subject to another. It fits in with their natures."
Law and Economics II: The Sequel

By Randal C. Picker†

The first rule of modern American culture is that a successful book or movie begets a sequel. Batman does great box office, so you do Batman Returns. If Alien is a good thing, then Aliens must be a better thing, and then Alien³, must be even better. Given the rule, it's a little surprising to me that there has been no sequel to Richard Posner's Economic Analysis of the Law.

Twenty years have passed since the first edition was published. As measured by the field it largely defined, the book was a great success and surely warranted a sequel. There have been other editions—the fourth came out recently—but the core of the book remains the same.

You would have done well to put money in game theory stocks in the 1980s, for it was a major growth industry.

Dick, of course, has switched his focus from economics to sex (or at least economics and sex in his Sex and Reason), and I guess it's hard to argue with that trade. Nonetheless, the approach to law and economics seen in Economic Analysis of the Law remains the dominant approach to the field.

A sample of well-known textbooks and research monographs makes the point. Look at Mitch Polinsky's Introduction to Law and Economics, which is now in its second edition; Cooter and Ulen's Law and Economics textbook, which came out in 1988; and the two torts monographs, Landes and Posner's “The Economic Structure of Tort Law” and Steven Shavell's “Economic Analysis of Accident Law,” both of which were published in 1987.

† Randal Picker is now writing a book, Strategic Behavior and the Law: The Role of Game Theory and Information Economics in Legal Analysis, with his colleagues Douglas G. Baird and Robert Gertner. This article is based on chapter 2 of that book, to be published by Harvard University Press.

In each case, the dominant mode of analysis uses the traditional tools of classical microeconomics. Individuals maximize utility or profits subject to constraints. Individuals are price-takers if the market is competitive, price-setters if a monopoly exists. These individuals are also perfectly informed. A sizable and largely successful academic legal literature applies the microeconomist's tool of marginal analysis to a vast array of legal problems. This was the approach of Posner's first edition, and very little of the basic approach to law and economics has changed since.

It is time for a sequel. No single book will serve as a sequel to Dick's book, but it appears possible now to identify the methodological sequel that will drive the next generation of law and economics. The last twenty years have seen a major shift in the fundamental methodological tools that microeconomic theorists use. Game theory now augments the twin, polar paradigms of pure competition and monopoly.

At the same time, in a related development, a richer variety of asymmetric and incomplete information now supplements the formerly standard assumption of perfect information. Rational actors now need worry about the actions of others—this is the fundamental strategic interdependence that game theory addresses—and they do so in an environment in which the information they possess is partial and fuzzy.

Intellectual infrastructure

You would have done well to put money in game theory stocks in the 1980s, for it was a major growth industry. Over that period, a core of key ideas crystallized and are now accessible to outsiders.

Four years ago, it would have been difficult to point to a recent game theory textbook; now half-a-dozen books are sold in any self-respecting academic bookstore, ranging from Dixit & Nalebuff’s Thinking Strategically, which is a nice, casual introduction; moving up to Eric Rasmussen's Games and Information, Robert Gibbons's recent Game
Why game theory? . . . in many situations, individuals will need to consider the acts of other individuals. Laws have a large role in such settings, and game theory is the best tool for modeling those situations.

such as Gary Becker’s Economic Theory, did for the law and economics pioneers.

Why do we need this hardware, and what will it get us? The answer to the first question is fairly clear. A sizable fraction of economic life is left out if we assume that either a competitive or monopoly paradigm applies.

Consider an accident on a country road involving a motorist and a pedestrian. The likelihood of an accident turns both on how much care the motorist uses in driving and how much care the pedestrian uses in crossing the street. We do not expect the motorist to drive so slowly so that there is never any possibility of hitting a pedestrian. Nor do we insist that the pedestrian cross only when there is no car in sight. We want them both to take sensible precautions. If both act reasonably, the chances of an accident as well as the inconvenience to both parties is minimized.

If they could bargain with each other, we would expect that each would agree to act in this way. The problem arises, of course, because the two are strangers and cannot communicate with each other. The motorist and the pedestrian both recognize that the actions of the other influence what will happen, and that basic fact must be recognized if we are to have a sensible analysis of the situation. Game theory is the right tool for this problem.

Switch from torts to contracts. Markets are built upon the idea of mutually beneficial trade. Some trades, of course, require no contract at all. When a seller gives a buyer grain at the same time the buyer gives the seller cash, each party acts simultaneously and neither risks that the other will not perform.

In many instances, however, performance cannot take place in an instant. A seller may have to commit resources to a particular trade before the buyer pays. The buyer may have to prepare for the seller’s shipment without knowing whether the seller will in fact deliver the goods as promised. The willingness of either party to enter into a contract and to perform that contract depends directly on what the other prospective party to the contract will do. Each needs to account for the actions of the other, and this again is precisely the domain of game theory.

Common law subjects often give rise to situations involving strategic behavior, but strategic issues are no less frequent when we turn to the New Deal administrative state and law through statutes rather than judges. The government now routinely requires disclosure of information, forbids disclosure, or attempts to suppress efforts to acquire information. The need for these rules and the likelihood that they will be successful depends on whether information can be inferred from the failure to reveal information voluntarily. That in turn will depend on whether different players are likely to play identical strategies—to pool, in the language of game theory—or to play different strategies—to separate. In many cases, an inference can be drawn from silence: the failure of the dog to bark allows Sherlock Holmes to solve the mystery of Silver Blaze.

The tools developed in game theory and information economics may provide a way to analyze everything from mandatory disclosure laws to anti-discrimination laws. These laws cannot work effectively unless we understand how people are likely to respond to them.

Simultaneous decisionmaking and country roads

Why game theory? The answer is that in many situations, individuals will need to consider the acts of other individuals. Laws have a large role in such settings, and game theory is the best tool for modeling those situations.

What does game theory get us? A sense of what is possible may be seen by looking at the simplest of the problems that I have mentioned. This situation also can be represented using the most accessible of the game-theoretic models, the two-by-two normal form game. Return to the accident on the country road. To jump right in, consider the following “game”:

![Figure 1—No Law](image-url)
Here are the stylized facts that this game is seeking to represent. If an accident takes place between the motorist and the pedestrian, the motorist and car will not be hurt, but the pedestrian will, of course, suffer harm. Assume that we can represent the harm to the pedestrian as a dollar amount and set that amount at $100.

Both the motorist and the pedestrian decide on how much care to take. Assume that they each choose between taking "no care" and "due care." Representing the decision of how much care to take as a binary choice oversimplifies greatly, but it is the natural place to start. Assume that it costs nothing to exercise "no care" but costs $10 to exercise "due care."

"Due care" is really a legal term for a physical level of care. Consistent with the convention, "due care" is the level of care that minimizes the total expected costs of the accident. We also need to know how the care choices relate to the probability of an accident occurring. Assume that the accident is certain to happen unless both the motorist and the pedestrian exercise "due care," but there is still a one-in-ten chance of an accident occurring even if both exercise "due care."

So far, we have set out the brute facts of nature: the choices available to our players (the motorist and the pedestrian), or what a game theorist would call the strategies of the players and the physical consequences associated with those strategies (whether an accident takes place and the resulting harm).

To fully specify this game, we need one more item, and it is this item that determines the precise structure of the game set forth above. We need to know the legal rule for allocating the harms of an accident.

The problem of strategic behavior that the legal analyst faces is a simple problem of simultaneous decisionmaking. The amount of care that the motorist and pedestrian each take would turn on the amount of care each expects the other to take. The amount of care that each takes will turn in some measure on the legal rule that is in place—when and to what extent the motorist will have to pay damages to the pedestrian in the event of an accident.

The first question for the legal analyst concerns the effect of changes in the legal rule on the behavior of the parties. Start with a rule of no liability, or of letting the parties bear their own losses. In this case, if an accident occurs, the motorist is not harmed and the pedestrian is harmed, and the legal rule of no liability does not reallocate any of the harm by having the motorist pay damages.

We can now explain the game in Figure 1 and determine how to solve it. In a legal regime of no liability, in which the motorist was never liable for the accident:

- If neither exercised care, the motorist would enjoy a payoff of $0 and the pedestrian a payoff of -$100. The cost of "no care" is zero, an accident is certain to happen, and the accident harms the pedestrian to the tune of $100.
- If both exercised care, the motorist would receive a payoff of -$10 and the pedestrian a payoff of -$20. (The motorist invests $10 in care and, assuming the pedestrian is risk neutral, still faces $10 in expected accident costs, a one-in-ten chance of a $100 accident.)
- If the motorist exercises care and the pedestrian does not, the motorist receives a payoff of -$10 (the cost of taking care) and the pedestrian a payoff of -$100 (the cost of the accident, which by assumption is certain to arise unless both take care).
- Finally, if the motorist does not take care and the pedestrian does, the motorist has a payoff of $0 and the pedestrian a payoff of -$110 (the pedestrian invests $10 in taking care and still suffers a $100 injury).
What is the likely outcome of this game? In this model, taking care costs the motorist $10 and provides no benefit to the motorist in return. The motorist always does better by not taking care than by taking care. We can predict the motorist’s likely choice of strategy because there is a single strategy (“no care”) that, in the context of this model, is better for the motorist no matter what choice the pedestrian makes. In the language of game theory, this is a dominant strategy (really a strictly dominant strategy). In corresponding fashion, a strategy which is always worse than another strategy, again regardless of what the other player does, is a dominated strategy. In Figure 1, “due care” is a dominated strategy for the motorist. We should predict that a player will embrace a dominant strategy wherever possible and will not embrace any strategy that is dominated by another.

I know that you know that I know . . . .

This idea by itself, however, tells us only what the motorist is likely to do in this model. We cannot use this concept to predict the pedestrian’s behavior. Neither of the strategies available to the pedestrian is dominated by the other. It makes sense for the pedestrian not to take care when the motorist does not, but to take care when the motorist does. The pedestrian lacks a dominant strategy because either course of action could be better or worse than the other, depending upon what the motorist does.

To predict the pedestrian’s behavior, we need to take the idea that players play dominant strategies one step further. Not only will a player likely adopt a strictly dominant strategy, but a player will predict that the other player is likely to adopt such a strategy and will act accordingly. We can predict, in other words, that the pedestrian will choose a strategy based on the idea that the motorist will not choose a strategy that is strictly dominated by another.

This idea travels under the name of iterated dominance and allows us to solve this game. The pedestrian should understand that the motorist has a dominant strategy—play “no care”—and, therefore, the pedestrian should play “no care” as well.

Given that the motorist plays “no care,” the payoff to the pedestrian from playing “due care” is -$110 and that from playing “no care” is -$100. (Recall that the accident is certain to happen unless both players play “due care”; once the motorist will not, the pedestrian is better off by not wasting any money on care.) The pedestrian should play “no care” as well. Neither player exercises care.

Note that to reach this solution, we proceeded iteratively: we first identified the strategy that the motorist would play using dominance arguments—this is the first iteration—and we next identified the pedestrian’s strategy given the motorist’s strategy as determined in the first stage of the argument—this is the second iteration. This is the logic of iterated dominance.

This extension of the idea that dominated strategies are not played requires us to make a further assumption about the rationality of the players. We not only act rationally and do the best we can given our preferences, but we also believe that others act rationally as well and do the best they can given their preferences. This solution concept seems plausible if the number of iterations is small. After all, most people act rationally most of the time and we can choose our own actions in anticipation that they will act this way.

If we accept this solution concept, we can solve the game in Figure 1. The pedestrian will not exercise care because the pedestrian will believe that the motorist will not exercise care and, in that event, the pedestrian, under our assumptions, is better off not exercising care either. We cannot, however, make this prediction as confidently as we can predict the motorist’s behavior. The solution to the game turns not only on the motorist acting in a way that advances his or her self-interest, but also on the pedestrian anticipating that the motorist will in fact act in this way.

Play under a rule of no liability puts us far from the social goal of having both players exercise due care. This result in itself is hardly startling. To say that the strategy of taking due care is dominated by another strategy of taking less than due care restates in the language of game theory a familiar insight from law and economics, the insight that in a world without tort law, parties tend to take less than due care because they do not fully internalize the costs of their actions. The motorist enjoys all the benefits of driving fast, but does not bear all the costs (the danger of injuring another motorist). By capturing the problem of the pedestrian and the motorist in the form of a two-by-two game, however, not only are the incentives of the motorist made manifest, but we can see how a change in the legal rules changes the incentives of the motorist and the pedestrian at the same time.

A legal rule brings about changes through the consequences it attaches to behavior that never happens either when the legal rule is in place or when it is not.
To see this, consider the legal regime of negligence coupled with contributory negligence. This is the regime that Anglo-American law has embraced for a long time. Under this regime, the pedestrian can recover only if the motorist is negligent and if the pedestrian is not. This rule of law leads to the normal form game set out in Figure 2:

<table>
<thead>
<tr>
<th></th>
<th>No care</th>
<th>Due care</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motorist</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No care</td>
<td>-100, 0</td>
<td>-100, -10</td>
</tr>
<tr>
<td>Due care</td>
<td>-10, -100</td>
<td>-20, -10</td>
</tr>
</tbody>
</table>

Payoffs: (Pedestrian, Motorist)

Figure 2 — Negligence with contributory negligence

Compare Figure 2 with Figure 1. They are identical except in the box in which the pedestrian exercises due care and the motorist fails to do so. In this event, the motorist rather than the pedestrian bears the cost of the accident. The pedestrian bears the cost of the accident whenever the pedestrian fails to exercise care and in the case in which both players exercise care. The legal rule does not change the strategies available to the players or the sum of the payoffs in each box. All that changes is the allocation of the cost of the accident between the parties.

In this game, unlike the game in Figure 1, the pedestrian has a dominant strategy. The pedestrian is always better off taking care. The motorist no longer has a dominant strategy. Whether the motorist is better off taking care turns on whether the pedestrian also takes care. If we accept the idea of iterated dominance, however, we can predict the strategy that the motorist will choose. The motorist will recognize that the pedestrian will play “due care” and then decide to play “due care.” Hence, under this legal regime, both pedestrian and motorist will take due care.

Changing outcomes that don’t happen

A comparison between the two models focuses our attention on the way in which this legal rule works and reveals a counterintuitive insight about the role of law. The only difference between Figure 1 and Figure 2 is in the box representing the strategy combination in which the pedestrian exercises due care and the motorist does not. In Figure 1, the payoffs were -$110 and $0 for the pedestrian and the motorist respectively. In Figure 2, they are -$10 and -$100.

This strategy combination is not the solution to either game: in Figure 1, neither player exercises care, while in Figure 2 both players exercise care. Yet it is how the negligence/contributory negligence regime reallocates the harm when the pedestrian takes care and the motorist does not—an outcome that is not reached in either game—that completely alters the expected play of the game.

Under either liability rule, we would never expect to observe the pedestrian exercising due care and the motorist exercising no care, but it is precisely how the law treats the outcome that will not happen that determines whether the efficient due care-due care outcome occurs.

A legal rule brings about changes through the consequences it attaches to behavior that never happens either when the legal rule is in place or when it is not.

This model also focuses on a central assumption underlying the Anglo-American rule. To believe that this rule works, we must believe both that the motorist acts rationally and that the motorist believes that the pedestrian acts rationally as well. The motorist will take care in order to avoid liability only if the motorist believes that the pedestrian is similarly motivated to act in a way that tries to avoid bearing the cost of accidents and will take care as well. If the motorist believed that the pedestrian would not take care, the motorist would not take care either. This liability rule turns crucially on the assumption that the motorist believes that the pedestrian will exercise due care.

At this point, it is worth discussing how this way of examining different tort rules in this rarefied environment differs from the traditional law and economics approach. The technical difference is largely that the traditional law and economics analysis rests upon another game theory solution concept, the Nash equilibrium solution concept—named after its creator John Nash—rather than ideas of dominance and iterated dominance.

The standard law and economics model is in a sense game theory under a different name. This explicit game theoretic approach does, however, isolate two features of the law in a way that the traditional law and economics analysis does not. First, it unpacks the rationality assumption upon which the basic law and economics model rests. We must assume not only that individuals behave rationally, but also that individuals expect others to behave rationally as well. Second, this way of looking at the problem reveals one of the important, but subtle, ways in which a legal rule works. A change in a legal rule
can alter the behavior of both parties even by changing outcomes that are never seen under either the new or the old regime.

**Sequel as Prequel as Sequel**

I started with the first rule on American culture about sequels. Unfortunately, the second rule is that the sequel usually falls far short of the original. If this rule applies with equal force to the academy, those of us in search of a sequel to the first-generation law and economics would be better served to take up a different enterprise.

But I take comfort in *The Godfather* and *The Godfather, Part II*. *The Godfather*, of course, was Francis Ford Coppola's epic tale of the Corleone Family, headed by the Godfather, Don Corleone, played by Marlon Brando. The movie was a popular and commercial success and took an Oscar as Best Picture. Attempting a sequel seemed a foolish endeavor. Nonetheless, barely two years later, *The Godfather, Part II* was released. This film looked both back and forward. Coppola interspersed the story of the young Don Corleone, played by Robert De Niro, with the story of the post-Don family, led by his son Michael, played by Al Pacino. This film won six Oscars, including Best Picture.

In a somewhat surprising way, game theory is both prequel and sequel to the first generation law and economics. The paper generally credited with starting the formal analysis of torts is "Toward An Economic Theory of Liability," by John Prather Brown, published by the Law School's *Journal of Legal Studies* in 1973. What is remarkable is that Brown's analysis was explicitly a game theory analysis. He used a different notion than the one described in this article—Nash equilibrium rather than dominance arguments—but he focused precisely on the circumstances under which different liability rules will give rise to efficient choices of care. Brown's use of formal analysis proved influential in subsequent work in torts, as the Landes and Posner and Shavell monographs attest—but the fact that his tool was game theory rather than classic microeconomics was virtually ignored.

The field of game theory has changed dramatically since Brown's paper was written. Dominance arguments of the sort made here are increasingly common (see, e.g., Orr, 1991), and there are now a staggering variety of tools available to the applied game theorist. Whether these will suffice in the face of the second rule of sequels is uncertain—though some of us are finding the rushes promising—but the time is clearly ripe to prove the first rule true.

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**References**


CREATING CAREER OPTIONS in Public Service

Economic considerations, high tuition, the nature of the placement process—all can work against a law student's decision to pursue a career in government or public service. The University of Chicago Law School aspires to counter those pressures.

By Catherine Lange

"You are not alone," Dean Geoffrey R. Stone '71 reassured law students considering careers in government or public service. His remarks opened the Law School's Public Service Law Week last October. Ten events over five days included panels, speakers, and information sessions aimed at increasing students' awareness of career opportunities in public service, highlighting the resources available to students through the Law School's Public Service Program.

"You are most assuredly in very good company," Dean Stone continued, explaining that more than 600 alumni, almost 10 percent of all graduates, are currently engaged full-time in government or public service. He pointed out that our "alumni serve as the Governor of Missouri and a Senator from Illinois; public defenders in Chicago and D.A.'s in New York; the State's Attorney of Cook County and the Minister of Justice of Israel; Counsel to the President's Intelligence Oversight Board, Parliamentarian to the United States House of Representatives, and Chief Minority Counsel to the Senate Committee on the Judiciary. They work at the SEC, the FTC, the FCC, the IRS, the TVA, the USIA, the FERC, the FDA, the EPA, the FDIC and virtually every other abbreviated agency in Washington."

The Law School is committed to training lawyers and scholars who are dedicated to the public good as well as professional excellence. "We cannot expect to have good government, a just society, or a respected profession if the best and brightest of our young lawyers...eschew public service," said Dean Stone early in his deanship.

To help inspire and support students' commitment to public service, the Law School's Public Service Program addresses several important areas. The Loan Deferment/Forgiveness Program, established in 1986, provides annual grants to graduates who are employed in public service to enable them to repay their education-related loans.

In addition, the Law School offers Public Service Summer Stipends to students who accept low-paying public service jobs during the summer. The Law School matches funds raised by the Chicago Law Foundation, a student organization that makes grants to students who accept summer public service positions. The Law School also offers fellowships each summer to students who work in the Edwin F. Mandel Legal Aid Clinic.

An essential component of the public service environment at the Law School—with about one-third of the students participating—is the Mandel Clinic, founded in 1957 as a joint venture of the Legal Aid Bureau of United Charities and the University of Chicago Law School. Since 1970, staff attorneys at the Clinic have served as clinical teachers of Law School students in one of the nation's leading clinical legal education programs.
In 1989, Dean Stone created the administrative position of Assistant Dean of Students and Director of Public Service Placement. In that role, Kathryn R. Stell '86 counsels and assists students and graduates who are interested in careers in public service. She also administers the Loan Deferral/Forgiveness Program and the Law School's summer Public Service Awards.

The institution of Public Service Law Week last fall illustrates the Law School's continuing commitment to making students and graduates aware of the wide variety of career alternatives available to them in the profession.

**Inaugural Public Service Law Week taps students' interest**

Nadine Strossen, President of the American Civil Liberties Union and keynote speaker at Public Service Law Week, emphasized that public service work not only benefits the public good through a "commitment to justice" but also "benefits the lawyer's own good and the good of the legal profession."

"Your professional life will be immeasurably more satisfying if you complement your work with public interest work," Ms. Strossen advised law students in the near-capacity audience in the Weymouth Kirkland Courtroom. Recognizing that "hybrid" public service work, done within private sector jobs, is available to many lawyers, Strossen stressed that "there is some pro bono work you can do that can be tailor made for you." Among her suggestions: assist in the incorporation of not-for-profit community groups; volunteer to teach adult education courses; write appellate briefs for public interest organizations; or work with a local prosecutor's office.

Fred Foreman, United States Attorney, Northern District of Illinois, told students attending a panel on Criminal Law, "Most of you will practice law for forty to fifty years. The best years of your legal profession will be working in public service." On the same panel, Rita Fry, Cook County Public Defender, admitted that with a starting salary of $28,600 in an office like hers, "Money is not the driving force in what you do." She noted, however, that public service lawyers like those in her office can and do make a difference.

Three key organizers worked to ensure the success of Public Service Law Week. Ms. Stell prepared a 24-page guide to the Law School's Public Service Program, first distributed during the week. Michael Ruiz '93 worked tirelessly to publicize the week, producing a logo which appeared on T-shirts sold to raise funds for the program as well as distributing posters and brochures and hanging attention-getting banners and balloons in the Harold J. Green Law Lounge.

Abner Greene, Assistant Professor of Law and chair of the Law School's Faculty Public Service Committee,
devoted much time and effort to draw together panelists and speakers whose presentations would represent the areas of greatest interest. During Public Service Law Week, at least 50, and as many as 100, students attended each of the panels dealing with specific substantive areas of public service practice. In addition to Criminal Law, panels discussed Public Interest Litigation, Government Practice, Delivery of Legal Services to the Poor, Pro Bono, Clinical Legal Education and Law Reform, and Environmental Law.

In a session on "Dealing with Debt," students received information from Ms. Stell; Richard I. Badger '68, Assistant Dean and Dean of Students; and Paul Woo, Director of Placement.

Mr. Woo, with the assistance of Mr. Ruiz, arranged to have representatives from public service employers available throughout the week to speak with students in the Green Law Lounge. Employers included the U.S. Department of Housing and Urban Development, United States Attorney, Community Law Project, The Chicago Coalition for the Homeless, Business and Professional People for the Public Interest, U.S. Environmental Protection Agency, and Illinois Attorney General.

The resources of the James C. Hormel Fund made the concentrated focus of Public Service Law Week possible.

**Loan Deferment/Forgiveness Program strengthened**

The Law School recognizes that students who graduate with a substantial burden of debt face economic obstacles in pursuing public service careers. Lawyers starting out in public service agencies can typically expect to earn between $22,000 and $32,000 a year, while starting salaries at law firms often reach $70,000 or more.

Through the Loan Deferment/Forgiveness Program, the Law School helps graduates meet their yearly loan indebtedness. Any Law School graduate who, within three years of graduation, begins legal work for a non-profit or governmental organization (excepting judicial clerkships) is eligible to receive an interest-free loan from the Law School. The amount of the loan is determined by a simple formula, based on the graduate's salary.

For example, a graduate currently working in public service and earning less than $32,000, with an annual debt repayment obligation of $6,000, will receive the full $6,000 from the Law School. A graduate earning more than $32,000 is expected to repay his or her debt in an amount equal to 50 percent of that portion of his or her annual income over $32,000. For example, a student earning $36,000, with an annual debt repayment of $8,000, would receive $6,000 from the Law School but would be expected to repay $2,000.

During the first three years of participation in the Loan Deferment/Forgiveness Program, a graduate receives support from the Law School in the form of a loan. No interest accrues on the balance while the graduate is in the program. After three years, the forgiveness component of the program gradually converts the loan into a grant. After his or her third year in the program, 33 percent of the loan is forgiven; after four years, 66 percent of the loan is forgiven; and after five years, 100 percent.

For example, a graduate in the program who receives a loan of $6,000 each year from the Law School and who...
leaves public service after four years will have $16,000 of the total loan forgiven, but will need to repay $8,000 to the school. If the student stayed in public service for five years, all of the loans would be forgiven.

Current participants in the Loan Deferment/Forgiveness Program include graduates of the classes of 1988, 1989, 1990, 1991, and 1992. Their employers include the Legal Assistance Foundation of Chicago, the Cook County Bar Association Community Law Project, the Iowa State Public Defender, Food Research & Action Center, and the Cook County Public Defender.

“If graduates feel compelled to go to private firms when they prefer to go into public service,” says Ms. Stell, “there’s a diversion of talent and energy that could serve the needs of people who need help—people evicted from their homes, people whose children have been taken from their custody, children who should be removed from abusive homes. There are pressing issues that many of our students would like to address. For a long time, they felt they just couldn’t do it.”

The Loan Deferment/Forgiveness Program is “one of the most generous in the country in terms of individual grants,” says Ms. Stell. Several years ago, James C. Hormel ’58, who served as Dean of Students in the Law School from 1961 to 1967 and is currently president of EQUIDEX, Inc., created a fund for this program. Mr. Hormel’s contributions include a recent additional commitment of $500,000 to the James C. Hormel Public Service Fund.

Summer stipends assist students in public service work

Each summer, the Law School assists approximately forty students who want to perform public service work. Ten or more students receive Chicago Law Foundation (CLF) awards; ten to fifteen receive Law School Summer Stipends; and another ten to twelve receive Mandel Legal Aid Clinic Summer Fellowships.

Competition among students for these grants has soared. “The last couple years, it’s been staggering,” says Randall Schmidt ’79, Clinical Professor of Law and administrator of the Clinic’s summer fellowship program. “The largest number of applications we had to the Clinic prior to two years ago was eighteen. Last year, I had 60 students apply.”

“Being able to go to a public service organization and tell them that you can work during the summer for free is a tremendous selling point,” says Mr. Ruiz. He received a CLF grant to work at Land of Lincoln Legal Assistance Foundation after his second year at the Law School. He also had the opportunity to work with that organization after his first year, when he received a Law School Public Service Summer Stipend.

In Mr. Ruiz’s case, the two summer grants allowed him to work with an organization that apparently became accustomed to his being there. However, says Mr. Ruiz, “They realized I wasn’t going to get paid by the Law School forever.” He has received and accepted an offer of full-time employment with Land of Lincoln upon graduation. Mr. Ruiz notes that the existence of the Loan Deferment/Forgiveness Program allayed his future employer’s fear that in taking the position he might not be able to repay his student loans.

Law School Public Service Summer Stipends

The Law School Public Service Summer Stipends, administered by Ms. Stell, award as much as $3,000 to students doing legal or legislative work for either a nonprofit organization or local, state, or federal government. Since 1989, approximately twenty students have received public service summer stipends each year from the Law School. Students must work a minimum of ten weeks over the summer, and stipends are adjusted if students receive outside funding.

Recipients of Law School Public Service Summer Stipends have worked with such agencies as: Alaska Public Defender; Women’s Legal Defense Fund; U.S. Attorney’s Office (various jurisdictions); U.S. Environmental Protection Agency; Leadership Council for Metropolitan Open Communities; Competitive Enterprise Institute; and U.S. Senate Judiciary Committee.

“Summer grants can open a path to public service careers,” says Ms. Stell. She notes that six graduates of the class of 1992 who had received Law School summer stipends have gone on to take public service jobs.

These students spent summers with the Chicago Department of Law; West Texas Legal Services; U.S. Attorney, Central District of California; American Civil Liberties Union/AIDS & Civil Liberties Group; and U.S. Attorney, Northern District of Illinois. They are now employed full-time with the U.S. Department of Health &
Human Services; the Tax Division of the U.S. Justice Department; U.S. Department of Agriculture; Los Angeles District Attorney; and the Chicago Legal Clinic, Pilsen Office.

**Chicago Law Foundation Summer Grants**

"It's a tradition," says Robert Nathan, a third-year law student and CLF president, in describing the student organization's annual pledge drive among students and faculty. Ms. Stell characterizes CLF's work as "law students subsidizing their classmates' public service jobs."

In each of the last two years, says Mr. Nathan, student participation reached approximately 70 percent; and between $45,000 and $50,000, including $25,000 in matching funds, has been raised each of those years.

"If a student pledges at the $250 level," Mr. Nathan explains, "the Law School will match $250 and an anonymous donor will give $500, giving CLF a total of $1,000." The Law School provides CLF with up to $10,000 in matching funds; an anonymous donor, an additional $15,000.

CLF awards at least ten full summer grants each year. For the summer of 1992, thirteen grants were awarded. Each student receives up to $4,000 for at least ten weeks of full-time public service work. CLF funds work in a variety of areas but excludes lobbying, government, and political work.

Some of the agencies where CLF summer grantees have worked include: Lawyers for Human Rights, Pretoria, South Africa; Legal Resource Center, Bombay, India; AIDS Legal Council of Chicago; ACLU of Southern California; Coalition for the Homeless; Lawyers' Committee for Civil Rights; and New York Legal Aid Society.

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### Mandel Legal Aid Clinic Summer Fellowships

The Mandel Legal Aid Clinic Summer Fellowships go to approximately ten first- and second-year Law School students, providing each with a stipend of $4,000 for thirteen weeks' full-time work in the Clinic. "I don't want students who just want to do the job," says Mr. Schmidt, who administers the fellowship program. "I want students who really want to work in the Clinic."

The Mandel Clinic currently focuses on five projects: Criminal Justice, supervised by Randolph N. Stone, Clinic Director and Clinical Professor of Law; Welfare/Child Support, supervised by Gary Palm '67, Clinical Professor of Law, and Catherine MacCarthy, Clinical Lecturer in Law; Employment Discrimination, supervised by Randall Schmidt, Clinical Professor of Law, and Carolyn Burns '88, Clinical Lecturer of Law; Mental Health, supervised by Mark Heyrman '77, Clinical Professor of Law; and Homeless Assistance, supervised by Lisa Parsons, Clinical Lecturer in Law.

The summer fellows receive the same caseload supervision and support as students who work for the Clinic during the school year. "The only difference," says Mr. Schmidt, "is that during the summer we have twelve students instead of 100, so each student will work on at least six times as many cases."

Students who work at the Clinic receive hands-on training in the practice of law, under the supervision of the Clinic's attorneys. Mr. Heyrman says, "At the beginning, I will act more like a boss. At the end, my students and I will be more like partners, colleagues."

Ann Reading, a third-year student who is currently involved in the Clinic and received a summer fellowship after her first year, says, "Practically—I've learned how to write a complaint, how to write motions, how to deal with clients. I've argued in State court. I've also learned

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With nearly 100 students working in the Mandel Legal Aid Clinic during the year, already scarce space becomes scarcer. The above cartoon, drawn by Mark Barnes '93, appeared in the Mandel Legal Aid Clinic Student Association newsletter, captioned: "How many future lawyers can you find?"
the tremendous way poor and disabled people are disadvantaged in this country."

Seth Levine, also a third-year student and president of the Mandel Legal Aid Clinic Student Association, spent the summer after his first year working in the Clinic. In describing his work that summer with Ms. MacCarthy on Turner v Chicago Housing Authority, Mr. Levine says, "For your first substantive assignment, with one year of legal education behind you, to be drafting briefs for the Seventh Circuit is a fairly amazing experience."

Mr. Levine continued to work on the case, which challenged a CHA policy on both state and constitutional law grounds. He arranged his second-year schedule to earn the necessary credits by the end of the second quarter to comply with the Illinois Supreme Court Rule 711, which allows students working for legal aid organizations to be licensed and to practice law as student practitioners. The rule requires that students have completed three-fifths of the credits needed for graduation.

The oral argument for the case was set for April 1, the beginning of the third quarter. Mr. Levine had earned the necessary credits, and the clinical faculty decided he would argue the case. He appeared before a panel of Seventh Circuit including Judge Richard Cudahy, Judge Walter J. Cummings, Jr., and Judge Frank Easterbrook '73. "It was odd," says Mr. Levine. "I had just finished Judge Easterbrook's Securities class, and instead of answering his questions as a student, I was answering his questions in court."

"It wasn't just a situation where my success or failure would determine my own personal fate," says Mr. Levine. "In some ways, it determined the fate of a large class of people who had no other voice but the one the Clinic was able to give them."

"Certainly not every student who has worked in the Clinic has gone into public service," says Mr. Schmidt, "and not every student who has gone into public interest has worked in the Clinic. But we do have some influence on them." Ms. Reading, for example, says she came to the Law School expecting to become involved in medical law issues but now hopes to work in poverty law.

The job market for public service positions, however, is tight. "State offices are very tight," says Ms. Stell. "Organizations in the private nonprofit world are feeling the pinch."

"Public interest organizations don't hire people every June or September like law firms," says Mr. Schmidt. "If they have an opening now, they need to hire someone now. If now is during the school year, a student is not going to get the job." He urges interested students, regardless of the jobs they take upon graduation, to make contacts in the public interest community.

Mr. Schmidt advises graduates who take positions with firms and are interested in doing pro bono work to learn who acts as the firm's liaison to groups like Lawyers Committee for Civil Rights and Chicago Volunteer Legal Services (CVLS). Lawyers can volunteer for pro bono work, individually or through their firms, with CVLS, which sponsors community-based legal services clinics. The National Lawyers Committee in Washington, D.C., and the Public Interest Law Initiative in Chicago are other clearinghouses for pro bono work.

"Get to know the people who do the work," says Mr. Schmidt. He advises that if graduates, for example, started working with CVLS doing utility work, they would eventually come in contact with a group like Business and Professional People for the Public Interest (BPI). "When a job opens up with the group," says Mr. Schmidt, "you'll know about it, and the agency hiring will know about you."

"Working in the Clinic, you get a chance to be around others like yourself," says Mr. Ruiz. "You get reinforcement, support. More important," he says, "you get to see people like Randolph Stone or Mark Heyman—people who have done this work for an extended period of time. You see that someone else actually has done this. You feel that working in public service isn't as farfetched an idea as you might have thought. You can work it out."
When I interviewed at Chicago three and a half years ago, I had never been to the Midwest and knew little about the Law School other than its reputation for law and economics. When I first heard Geof Stone give his spiel about why Chicago was absolutely, positively, indisputably the very best law school on the face of the earth, I was politely disbelieving, to say the least. Eight months later, talking to prospective students, I suddenly realized that I sounded just like Geof, and that I meant every word. I think it's something in the water.

—Anne-Marie Burley

Family: Engaged Moravcsik, Assistant Professor of Government at Harvard University.

Outside interests: Running, scuba diving, opera, cooking, Asian art, and Italy.

Randal Picker '85, an Assistant Professor of Law since 1989, becomes Professor of Law with tenure, effective July 1.

PROFILE
Date of birth: October 15, 1959
Teaching and research: Bankruptcy, Secured Transactions, Game Theory and the Law.
Family: Married to Gretchen Schmutz. One child, Benjamin, aged 3.
Outside interests: Computers.

Richard Ross, who served as a Visiting Professor of Law during the 1992–93 academic year, will join the faculty as an Assistant Professor of Law, effective July 1, 1993.

PROFILE
Date of birth: January 28, 1963
Education: B.A., Yale University, 1984; J.D., Yale Law School, 1989; M. Phil. (history), Yale University, 1990; Ph.D. candidate, History Department, Yale University.
Teaching: American Legal History, Property.

“I am delighted to be at the Law School. Like the University of which it is a part, the Law School is a great center for research, thinking, and puzzling. It offers a place to continue my education in public—to teach and to learn in a community devoted to doing the same.”

—Richard Ross

Current research: “Memory Jurisprudence and the Problem of Authority in Early America” (Ph.D. thesis, History Department, Yale University).
Scholarly organizations: American Society for Legal History; Organization of American Historians; Law and Society Association.
Outside interests: Colonial history (courtrooms and old books especially favored; tobacco, cities upon hills, and witches best appreciated from a distance); movies; cinnamon-raisin bagels and chocolate; penance at a gym (see previous interest).
LECTURERS IN LAW

Carolyn Burns has accepted an appointment as Clinical Lecturer in Law in the Mandel Legal Aid Clinic. Ms. Burns received her B.A. in American History from Yale in 1985 and her J.D. from the University of Chicago Law School in 1988. Since 1988, Ms. Burns has been a staff attorney with the Legal Assistance Foundation of Chicago, where she has specialized in housing, discrimination, public benefits, family and public utilities cases. Ms. Burns is a member of the Chicago Conference of Black Lawyers and the Reserve Officers Association. In the Clinic, she will work primarily in the Employment Discrimination Project.

Susan Gzesh will serve as a Lecturer in Law for the Spring Quarter of the 1992–93 academic year. Ms. Gzesh received her B.A. from the University of Chicago in 1972 and her J.D. from the University of Michigan in 1977. In the years since, she has practiced in the field of immigration law with Southern Minnesota Regional Legal Services, the Legal Assistance Foundation of Chicago, and the Chicago Lawyers Committee for Civil Rights Under Law. At various times during her career, Ms. Gzesh has taught at the University of Iowa College of Law, the Universidad de Guadalajara, the University of Michigan Law School, and the Northwestern University School of Law. She will teach a course on Immigration Law.

VISITING FACULTY

Vojtech Cepi will serve as Visiting Professor of Law for the Fall Quarter of the 1993–94 academic year. Mr. Cepi is Vice-Dean and Professor of Law at the Faculty of Law of Charles University in Prague. Mr. Cepi has studied at Charles University, Oxford, Moscow State University, and the University of Michigan. He is the author of numerous books, including *Sociology for Lawyers*, *Programme of the Housing Policy and Law Reform*, and *The Road Out of Serfdom*. Mr. Cepi is one of the Czech affiliates of the Law School’s Center for the Study of Constitutionalism in Eastern Europe. He will teach a course on Property Rights in Eastern Europe.

Robert Cooter has been appointed a Visiting Professor of Law for the Winter and Spring Quarters of the 1993–94 academic year. Mr. Cooter received his Ph.D. in Economics from Harvard in 1975. He has served as a Professor in the Department of Economics of the University of California at Berkeley since 1975 and as a Professor in its Law School since 1982. Mr. Cooter has written numerous scholarly articles and several books, including *Law and Economics* and *The Payment System*. He will teach Economic Analysis of Law.

Einer Elhauge will serve as a Visiting Professor of Law for the Fall Quarter of the 1993–94 academic year. Mr. Elhauge received his B.A. magna cum laude from Harvard College in 1982 and his J.D. in 1986 from the Harvard Law School, where he earned both the Fay Diploma and the Sears Prize and served as Articles Editor of the *Harvard Law Review*. Thereafter, Mr. Elhauge served as a law clerk to Judge William A. Norris of the United States Court of Appeals for the Ninth Circuit and then to Justice William J. Brennan, Jr. of the Supreme Court of the United States. He has been a Professor at the University of California at Berkeley Law School since 1988. Mr. Elhauge’s publications include “The Scope of the Antitrust Process” (1991), “Does Interest Group Theory Justify More Intrusive Judicial Review” and “The Triggering of Sale of Control Doctrine.” He has served as a Visiting Scholar at Karolinska Institute in Stockholm, at the Centre for Health Economics in England, at Cambridge University, and at the European University Institute. Mr. Elhauge will teach in the areas of Health Law and Antitrust Law.

Lawrence Friedman ’51 has accepted appointment as a Visiting Professor of Law for the Spring Quarter for the 1993–94 academic year. Mr. Friedman, the Marion Rice Kirkwood Professor of Law at Stanford Law School, is one of the nation’s foremost experts in American Legal History. He is the author of more than a hundred scholarly articles and more than a dozen books, including *A History of American Law* (1973), *The Roots of Justice* (1981) and *Reason and Experience in Contemporary Legal Thought* (1986). Mr. Friedman is a Fellow of the American Academy of Arts and Sciences, has served as a Fellow at the Center for Advanced Study in the Behavioral Sciences, and is a Member of the National Research Council’s Commission on Behavioral and Social Sciences and Education. Mr. Friedman previously served as a Visiting Professor at the Law School during the 1991–92 academic year. He will teach a course on American Legal History and a seminar on the History of Criminal Justice.

Douglas Ginsburg ’73 has accepted appointment as the Charles J. Merriam Visiting Scholar and Senior Lecturer in Law for the Spring Quarter of the 1993–94 academic year. Judge Ginsburg was appointed to the United States Court of Appeals for the District of Columbia Circuit in 1986. Prior to his appointment to the federal bench, Judge Ginsburg served as a Professor of Law at the Harvard Law School, Deputy Assistant Attorney General for Regulatory Affairs in the Antitrust Division of the United States Department of Justice and Administrator for Information and Regulatory Affairs in the Executive Office.
Jennifer of the President. Judge Ginsburg will teach a seminar on Readings in Legal Thought.

Saul Levmore will serve as Visiting Professor of Law for the Fall Quarter of the 1993-94 academic year. Mr. Levmore is the Class of 1962 Professor of Law at the University of Virginia. He received his B.A. from Columbia in 1973, a Ph.D. from Yale in Economics in 1978, and his J.D. from Yale in 1980. He has written more than thirty scholarly articles, including “Takings, Torts, and Special Interests,” “Remedies and Incentives in Private and Public Law,” and “Probabilistic Recoveries, Restitution and Recurring Wrongs.” Mr. Levmore has served previously as a Visiting Professor at Harvard and Yale Law Schools and in 1984 received the Outstanding Teacher Award at Virginia Law School. He will teach in the areas of Torts and Comparative Law.

Martha C. Nussbaum will serve as a Visiting Professor of Law for the Spring Quarter of the 1993-94 academic year. Ms. Nussbaum is a University Professor, Professor of Philosophy and Classics, and Adjunct Professor of Comparative Literature at Brown University. She is the author of several books, including Love’s Knowledge: Essays on Philosophy and Literature (1990) and The Fragility of Goodness: Luck and Ethics in Greek Tragedy and Philosophy (1986), and more than seventy scholarly articles. She serves as an editor of numerous publications, including Oxford Studies in Ancient Philosophy, American Journal of Philology, Yale Journal of Law and Humanities and Philosophy and Literature. Ms. Nussbaum will teach a course on Law and Literature.

Jennifer Nedelsky will serve as Visiting Professor of Law for the Spring Quarter of the 1993-94 academic year. Ms. Nedelsky is the author of Private Property and the Limits of American Constitutionalism: The Madisonian Framework and its Legacy (1990), and numerous scholarly articles, including “Democracy, Justice and the Multiplicity of Voices: Alternatives to the Federalist Vision” (1990) and “Reconceiving Autonomy” (1989). Ms. Nedelsky is the founder of the University of Toronto’s Feminist Research Forum, a member of the Political Science Association, and a member of the Advisory Board of the Yale Journal of Law and Feminism. Ms. Nedelsky previously served as a Visiting Professor at the Law School during the 1990-91 academic year. Ms. Nedelsky will teach a course on Feminist Theory and a seminar on Jurisprudence.

Victor Osiatynski will serve as Visiting Professor of Law for the Spring Quarter of the 1993-94 academic year. Mr. Osiatynski is Program Director of the Institute for the Study of Human Rights in Poland, Advisor to the Constitutional Commission of the Polish Senate, and a Director of the University of Chicago Law School’s Center for the Study of Constitutionalism in Eastern Europe. He has taught at Warsaw University, Columbia University, Harvard University, the University of Virginia, and the University of Chicago. He is the author of seven books and numerous articles, including several on the subject of constitutional theory. Mr. Osiatynski will teach a course on Constitutional Rights in Post-Communist Eastern Europe and a seminar in the area of Jurisprudence. Mr. Osiatynski will also serve as a Visiting Professor for one quarter during the 1994-95 academic year.

Julie Roin has been appointed Visiting Professor of Law for the Fall Quarter of the 1993-94 academic year. After receiving her J.D. from Yale in 1980, where she served as editor of the Yale Law Journal, Ms. Roin served as a law clerk for Chief Judge Patricia Wald of the United State Court of Appeals for the District of Columbia Circuit and then practiced for several years in the Washington, D.C., law firm of Caplin & Drysdale. Ms. Roin has been a Professor at the Virginia Law School since 1985. She has served as a Visiting Professor at Yale and Harvard. She is the author of several articles, including “The Grand Illusion: A Neutral System for the Taxation of International Transactions” and “Public Choice Theory and the Tax Code,” and is currently writing a casebook on International Business Transactions. Ms. Roin teaches Contracts, Federal Taxation, and International Taxation.
PUBLIC SERVICE LAW WEEK

Banners over the Harold J. Green Law Lounge doors heralded the Law School’s inaugural Public Service Law Week, held October 26–30, 1992. Nadine Strossen, President of the American Civil Liberties Union, delivered the keynote address.

During the week, as many as 100 students attended each of the panels dealing with specific areas of public service practice. Panels discussed Public Interest Litigation, Criminal Law, Government Practice, Delivery of Legal Services to the Poor, Pro Bono, Clinical Legal Education and Law Reform, and Environmental Law.

For more coverage of the week, please see the article which begins on page 16, “Creating Career Options in Public Service.”

CONFERENCE ON PRESIDENTIAL AND PARLIAMENTARY POWERS IN EASTERN EUROPE

On December 2–3, 1992, the Law School’s Center for the Study of Constitutionalism in Eastern Europe held a conference in Chicago. The conference focused on issues surrounding legislative-executive relations and the powers of presidents in the new post-Communist constitutions of Eastern Europe and the former Soviet Union. Sessions concerned legislative and executive competencies in comparative perspective; presidential and parliamentary powers in Poland; and parliamentary control over government.

Conference participants included Lech Falandysz, Secretary of State in the President’s Office of Poland, and Jerzy Cienniewski, the vice chairman of the Polish parliament’s Constitutional Commission. Falandysz is President Walesa’s senior-most liaison to the parliament. In December 1991, at Walesa’s behest, he attempted to drive through parlia-

ment what has come to be called the “Little Constitution,” a reference to the 1919 constitution. It was revealed at the conference that the draft constitution was written in only four hours. However, that initiative failed. In the parliament, a counter constitution was proposed by Cienniewski, who was its primary author. That constitution successfully passed the Sejm, the Polish parliament. At the conference, the debate between these two contrary political power bases was spirited.

Other participants included Peter Kresak, judge of the Czechoslovak constitutional court, and Miro Cerar, secretary of the Constitutional Commission of the Slovenian parliament. Others taking part included Yuri Baturin of Moscow’s International Foundation for Socio-Economic and Political Studies; Alexander Blankenagel of Humboldt University, Berlin; Vojtech Cepl, Vice-Dean of Charles University Law School, Prague; Runyana Kolarova of Sofia University; Egidijus Kuris of Vilnius University, Lithuania; Lucian Mihai of the University, Bucharest; Kristina Morvai from ELTE Law School, Budapest; Kinga Petervari from the Central European University, Budapest; George Poshniv of the Institute for State and Law, Sofia; Olga Sidorovich, the Center’s coordinator in Moscow; Branko Smerdel of Zagreb Law School; and Herman Schwartz of the American University, Washington, D.C. Participants from the Law School included professors Anne-Marie Burley, Kenneth Dam, Richard A. Epstein, Lawrence Lessig, and Abner Greene.

On December 3, a spirited debate addressed whether Eastern European constitutions should include social and economic rights. These might include such rights as the right to a minimum wage, to leisure time, to equitable wages, to social security, and to decent nourishment and health care.
Professor Cass R. Sunstein argued against such rights. He claimed that in the particular conditions of Eastern Europe, it is important to establish firm negative rights, in order to promote the goal of obtaining legally enforceable guarantees. In Sunstein's view, social and economic rights are likely to be unenforceable. Sunstein also contended that such rights would work against the current effort to diminish the sense of entitlement to state protection, and to encourage individual initiative and independence. Professor Herman Schwartz vigorously disagreed. He claimed that many social and economic rights are enforceable, that a decent society respects such rights, and that it is especially important to ensure the citizens of Eastern Europe that they will not be abandoned to desperate circumstances during the difficult transition to a market economy.

Professor Wiktor Osiatynski steered a middle course, claiming that while in the end social and economic rights may be hard to enforce, they are important symbols and the current process of constitution-making requires symbols of this kind. Professor Jon Elster distinguished among different social and economic rights, claiming that some were absurd, others were unenforceable, and still others were more reasonable. Professor Vojtech Cepl discussed some of the background issues that make social and economic rights a subject of current dispute.

The Center for the Study of Constitutionalism in Eastern Europe announced it will release the East European Constitutional Review in Russian on March 8. The Center established a Moscow office during the summer of 1992 with the intention of gathering constitutional materials and commissioning working papers for the Center on Russia, Ukraine, Belorus and the Baltic states. The office is also in charge of translating the English edition of the Review into Russian for distribution throughout the former Soviet Union. Distribution is targeted at members of parliament, constitutional drafters, and members of the various Constitutional Courts. The Russian version will be released from Moscow approximately one month after the release of the English version of the Review.

Participants in the conference on Presidential and Parliamentary Powers in the New Eastern European Constitutions, sponsored by the Law School's Center for the Study of Constitutionalism in Eastern Europe, included:

(Top photo) Wiktor Osiatynski (at left), Director, Center for Human Rights in Eastern Europe, Warsaw, Poland; and Lech Falandysz, Secretary of State, Office of the President, Warsaw, Poland.

(Center photo, from left) Miro Cerar, Secretary of the Constitutional Commission, Parliament of the Republic of Slovenia; Egidijus Kuris, Director, Institute of International Relations, Vilnius University, Lithuania; Lucian Mihai, Associate Professor, Faculty of Law, University of Bucharest; Abner Greene, Assistant Professor of Law, The University of Chicago; Peter Kresak, Professor of Law and Vice Dean, Comenius University School of Law, Bratislava, Slovakia; and Vojtech Cepl, Professor of Law and Vice Dean, Charles University, Prague, Czech Republic.
VISITING COMMITTEE

The Visiting Committee convened its annual meeting at the Law School on November 12, 1992. Forty-four committee members met for the two-day program.

The theme of the program—narrowing the gap between legal education and the practicing bar—centered discussion on issues raised by The MacCrate Report on Legal Education and Professional Development. The report was issued by the American Bar Association’s Section of Legal Education and Admissions to the Bar.

Visiting Committee Chair James C. Hormel ’58 addressed the group briefly, followed by Dean Stone’s welcome and introductory remarks. During the first session, Professors Geoffrey P. Miller and Daniel N. Shaviro provided committee members with an overview of the Law School curriculum.

The second session focused on whether the Law School should place less emphasis on substantive law and legal theory and more emphasis on what the MacCrate Report calls “practical and people skills,” such as negotiation, counseling, communication, and factual investigation. Professors Walter J. Blum ’41, Kenneth W. Dam ’57, and Randolph N. Stone participated in the session.

During the lunchtime break, members of the Committee held concurrent seminars for faculty and students. Al Hofeld ’64 discussed running for office as a political outsider. David A. Kessler ’78, Commissioner of the Food and Drug Administration, spoke about government service. The Honorable Monroe G. McKay ’60, U.S. Court of Appeals for the 10th Circuit, Provo, Utah, discussed “What Is ‘A Theory of Your Case.’” Committee members could also attend Law School classes—Torts I taught by Professor Richard A. Epstein and Evidence taught by Professor David P. Currie.

At the first afternoon session, Professors Anne-Marie Burley, Richard Epstein, and Michael McConnell discussed whether a serious gap exists between the Law School curriculum and the needs of students. The day’s last session raised the question of whether the American Bar Association should use accreditation standards to require schools to narrow the gap between legal education and the practicing bar. Professors Norene Morris, Gary H. Palm ’67, and Diane P. Wood made presentations.

The Weymouth Kirkland Courtroom filled to capacity with Visiting Committee members, faculty, and students to hear Douglas G. Baird deliver the 1992 Wilber C. Katz Lecture, a lecture established in 1976 in honor of the former dean. Professor Baird spoke on the topic of “Reconstructing Contracts,” focusing on several cases to illustrate how promises can be legally enforceable. A reception followed the lecture, after which the Committee gathered for dinner in the Burton-Judson lounge.

The following day, committee members met with the Law Students Association before entering executive session with Dean Stone. At lunch, Assistant Professor of Law Elena Kagan offered her observations of the Law School as the faculty’s newest member.

VISITING COMMITTEE MEMBERS

Chair 1992-93
James C. Hormel ’58, EQUIDEX, Inc., San Francisco, California

Terms expiring 1992-93
Terry Diamond ’63, Steiner Diamond Asset Management, Chicago, Illinois
John Friedman, Jr. ’70, Dewey Ballantine, New York, New York
David Greenbaum ’76, Mendik Realty Company, New York, New York
Jean Reed Haynes ’81, Kirkland & Ellis, New York, New York
The Honorable Thelton E. Henderson, Federal District Court for Northern District of California, San Francisco, California
Albert F. Hofeld, Jr. ’64, Hofeld and Schaffner, Chicago, Illinois
Colette Holt ’85, Chicago Park District, Chicago, Illinois
Elmer Johnson ’57, Kirkland & Ellis, Chicago, Illinois
Karen Kaplowitz ’71, Alschuler Grossman & Pines, Los Angeles, California
The Honorable Phyllis Kravitch, U.S. Court of Appeals for the 11th Circuit, Atlanta, Georgia
Daniel Levin ’53, The Habitat Company, Chicago, Illinois
William F. Lloyd ’75, Sidley & Austin, Chicago, Illinois
Peter H. Merlin, Gardner Carton & Douglas, Chicago, Illinois
The Honorable Abner Mikva '51, U.S. Court of Appeals, D.C. Circuit, Washington, D.C.
Hugh M. Patinkin '75, Mark Bros. Jewelers, Inc., Highland Park, Illinois
Jeffrey Peck '82, Venable Baelter Howard et al., Suite 1000, 1201 New York Avenue, Washington, D.C.
Herbert Portes '36, Horwood Marcus & Braun, Chicago, Illinois
Alfons Puelinckx '65, Puelinckx-Linden-Groling-Uyttersprot, Brussels, Belgium
The Honorable Stephanie Seymour, U.S. Court of Appeals for the 10th Circuit, Tulsa, Oklahoma
Marc Wolinsky '80, Wachtell, Lipton, Rosen & Katz, New York, New York

Terms expiring 1993–94
Stephen Stewart Bowen '72, Latham & Watkins, Chicago, Illinois
Nancy G. Feldman '46, Tulsa, Oklahoma
James Clement Franczek '72, Vedder Price Kaufman & Kammholz, Chicago, Illinois
The Honorable Charles Freeman, Illinois Supreme Court, Springfield, Illinois
B. Mark Fried '56, Fried Companies, Inc., McLean, Virginia
Perry L. Fuller '49, Hinshaw & Culbertson, Chicago, Illinois
Maurice Fulton '42, Glencoe, Illinois

The Honorable Karen Henderson, U.S. Court of Appeals, D.C. Circuit, Washington, D.C.
Laura Banfield Hoguet '67, White & Case, 1155 Avenue of the Americas, New York, New York
Lillian E. Kraemer '64, Simpson, Thacher & Bartlett, New York, New York
Mark C. Mamolen '77, Carl Street Partners, Chicago, Illinois
Michael J. Marks '63, Alexander & Baldwin, Inc., Honolulu, Hawaii
The Honorable Monroe G. McKay '60, U.S. Court of Appeals for the 10th Circuit, Provo, Utah
Clarence Page, The Chicago Tribune, Washington, D.C.

The Right Honorable Geoffrey W. Palmer '67, Wellington, New Zealand
Benjamin Arrington Street III '79, Chicago, Illinois
Allen M. Turner '61, Pritzker and Pritzker, Chicago, Illinois
Claire A. Weiler '83, Vedder Price Kaufman & Kammholz, Chicago, Illinois
Barry S. Wine '67, Vice President, Sony Corporation, New York, New York
The Honorable James B. Zagel, U.S. District Court for the Northern District of Illinois, Chicago, Illinois

Terms expiring 1994–95
Kathleen Wilson Bratton '74, Philadelphia, Pennsylvania
Neil S. Braun '77, Viacom Pictures, New York, New York
The Honorable José A. Cabranes, U.S. District Judge for the District of Connecticut, New Haven, Connecticut
Antonia Chayes, Endispute Incorporated, Cambridge, Massachusetts
Thomas A. Cole '75, Sidley & Austin, Chicago, Illinois
Georgette D'Angelo, Metropolitan Properties, Chicago, Illinois
The Honorable W. Eugene Davis, U.S. Court of Appeals for the Fifth Circuit, Lafayette, Louisiana
Gene E. Dye '67, Salans, Hertford & Heilbronn, Paris, France

Judges Stephanie Seymour (at left), Phyllis Kravitch (center), and Abner Mikva '51 converse prior to the Visiting Committee’s first session.
TAX CONFERENCE

The Law School's 45th annual Federal Tax Conference drew participants from across the country. The three-day conference was held October 26-28 at the Swissotel, Chicago. Each day was devoted to a separate topic—timing and characterization of income and expenses of business and corporations; corporate and business income and deductions; and international taxation.

Richard I. Fine '64, Los Angeles, California
Rita Fry, Cook County Public Defender, Chicago, Illinois
Dr. David A. Kessler '78, Chairman, Food and Drug Administration, Washington, D.C.
Esther F. Lardent, American Bar Association, Washington, D.C.
Michael E. Meyer '67, Pillsbury Madison & Sutro, Los Angeles, California
Linda Thoren Neal '67, Linda Thoren Neal, Ltd., Chicago, Illinois
Gerald Fenner '64, Katten Muchin & Zavis, Chicago, Illinois
George Phocas '53, Riverdale, New York and London
Gerald Ratner '37, Gould & Ratner, Chicago, Illinois
Lawrence E. Rubin '70, Rubin & Rubin, P.C., Silver Spring, Maryland
David Savage, Los Angeles Times, Washington, D.C.
James H. Shimberg '49, Town & Country Park, Inc., Tampa, Florida
Professor Miodrag N. Sukijasovic '59, Slovenia

Speakers included Joseph L. Andrus '76 (Baker & McKenzie), who discussed planning the international corporate structure to minimize foreign tax credit erosion caused by United States expense allocation rules; Sheldon I. Banoff '74 (Katten Muchin & Zavis), who spoke about guaranteed payments for the use of capital and will serve as chairman of next year's conference planning committee; and Thomas L. Evans '83 (University of Texas Law School), who analyzed the realization doctrine.

Stephen S. Bowen '72 (Latham & Watkins) joined the panel on Corporate and Business Income and Deductions and also served on this year's conference planning committee, with Mr. Banoff, Walter J. Blum '41 (Edward H. Levi Distinguished Service Professor Emeritus), George B. Javara '64 (Kirkland & Ellis), and Burton W. Kanter '52 (Neal Gerber & Eisenberg).

LEGAL FORUM SYMPOSIUM

On October 9 and 10, the University of Chicago Legal Forum held its eighth annual symposium. Co-sponsored by The Chicago Sun-Times, this
year’s program addressed the topic of “A Free and Responsible Press.”

On Friday afternoon, Lee Bollinger, Dean and Professor of Law at the University of Michigan Law School, delivered the keynote address. He used the 1947 Hutchins Commission “Report on a Free and Responsible Press” as a benchmark, arguing that today’s press is more independent of legal controls and subject to little new self-regulation.

The symposium continued on Saturday with a series of panel discussions. The panel on the criminal justice system—which consisted of Dean Geoffrey R. Stone ’71; Frederick Schauer, Harvard University; and The Honorable Patricia M. Wald, U.S. Court of Appeals, D.C. Circuit—was moderated by Professor Randolph N. Stone. Elena Kagan, Associate Professor of Law, moderated the panel on news gathering, which included Professor David A. Strauss; Rodney A. Smolla, Marshall-Wythe School of Law; and Lillian Riemer BeVier, the University of Virginia. The final panel discussed “viable democracy.” Its moderator was Professor Michael W. McConnell. Panelists included Professor Cass R. Sunstein; Robert M. Entman, Associate Professor, Northwestern University; and the Honorable Danny J. Boggs, U.S. Court of Appeals, Sixth Circuit.

Volume 1993 of Legal Forum, to be published later this year, will contain papers presented at the symposium.

COASE LECTURES INAUGURATED

During the 1992–93 academic year, the Law and Economics Program instituted a lecture series in honor of Ronald H. Coase, Clifton R. Musser Professor Emeritus of Economics and recipient of the 1991 Nobel Memorial Prize in Economics. “While the typical workshop presents scholarship at the cutting edge, these lectures intend to make the basic principles of law and economics accessible to a general audience,” says Douglas G. Baird, Harry A. Bigelow Professor of Law and Director of the Law and Economics Program.

Alan O. Sykes, Professor of Law, delivered the first Coase Lecture on December 1, 1992 in the Weymouth Kirkland Courtroom. In his lecture, Mr. Sykes sought to explain regression analysis, which he said is “by far the most important tool in empirical economics.”

Mr. Sykes stressed the technique’s general applicability but focused on one example of its use. “Regression analysis is routinely used in Title VII litigation—where the question is whether or not someone has suffered discrimination. To know the answer to that,” said Mr. Sykes, “you have to have a sense of what they should be earning. That in turn requires a sense of what someone at their level of education and experience ordinarily earns. And you can’t know that without having some technique for identifying how much education or experience ordinarily contribute to earnings. Regression analysis is that tool.”

William M. Landes, Clifton R. Musser Professor of Law and Economics, discussed the economics of litigation in the second Coase Lecture, delivered on March 2. He provided an analysis of why people litigate and why they settle.

Randal C. Picker will deliver the final Coase Lecture of this academic year on April 20. He will speak about game theory.

JUSTICE DIETER GRIMM DELIVERS SCHWARTZ LECTURE


Justice Grimm stated that the German Constitution takes a positive law approach to speech rights. Mary E. Becker, Professor of Law, who attended the lecture, observed that “the fundamental right of free speech is not simply a negative right in Germany, according constitutional protection to the speech of
those who have the power to speak. German constitutional law allows, and indeed requires, regulation of speech, particularly in the electronic media, to enrich public debate," continued Ms. Becker.

Dean Stone commented, "I was led to wonder whether these differences are due to deep cultural, historical and political differences between the two nations, or whether they are really nothing more than random differences due to the accident of the appointments process. One can easily imagine a legal universe in the United States, for example, in which the Supreme Court would have embraced positions about the First Amendment quite similar to those that have been adopted by the German Constitutional Court. If Hubert Humphrey had won the 1968 election and appointed Justices Abner Mikva, Skelly Wright, John Minor Wisdom, and Carl McGowan in place of Justices Harry Blackmun, Warren Burger, Lewis Powell, and William Rehnquist, we might have had just such a development."

Dean Stone continued, "A central question in comparative constitutional law is what causes the differences in the jurisprudence of different nations. Are they culturally determined or are they largely the product of historical accident?"

**STUDENT NEWS**

**John Mitchell '94** was elected president of the National Asian Pacific American Law Students Association (NAPALSA) in November during the organization's 12th annual conference in Washington, D.C. Mr. Mitchell hopes to address concerns of minority groups within the Asian community, particularly those of newer immigrants and South Asians. Mr. Mitchell received his B.A. in international studies from Emory University in 1990. He spent a year of his undergraduate study in Tokyo, Japan.

**Ron Bell '93**, former editor of *The Phoenix* with **Don Sung '93** and **Richard Aderman '93**, entered the biweekly in the American Bar Association's annual law school newspaper contest. *The Phoenix* placed second in its division for overall excellence. The newspaper, published since 1980, was the brainchild of **David Baker '82**, who says that when he sees recent copies of *The Phoenix* he is impressed by the "level of participation by students, the humor, and the diverse and vibrant activities" going on at the Law School.

**CLINTON CALLS MANDEL CLINIC CLIENT ON LEAVE ACT**

Carmen Maya, a client of the Mandel Legal Aid Clinic, received a conference call from President Bill Clinton and Vice President Al Gore on January 28. They spoke with Ms. Maya and nine other people from around the country, the Chicago Tribune reported, to showcase the need for family leave legislation. Each of the nine had personal experiences that made them advocates of the proposed Family and Medical Leave Act, which passed Congress and was signed by President Clinton the following week.

Ms. Maya, 43, was fired in 1988 by a Chicago hospital that had employed her as a pharmacy technician for more than 19 years. She believes she was fired, not because of staff cuts as the hospital claimed, but because of the 12-week leave she took after her daughter was born and diagnosed with Down's syndrome. She is suing the hospital to get her job back, claiming sex discrimination.

The Mandel Clinic has represented Ms. Maya in her sex discrimination case since late 1988, says **Randall Schmidt '79**, Clinical Professor of Law. The case is in the final stages of discovery before an Administrative Law Judge at the Human Rights Commission. Mr. Schmidt expects the case to be set for trial in the fall of this year or early in 1994.

Students who have represented Ms. Maya include **Jennifer Altfeld '90**, **Lynne Greenberg '90**, **Richard Robbins '91**, and **Linda Petty '92**. She is currently represented by **Marc Boxerman '93**, **Tom Marton '93**, and **Jennifer Spruill '94**.

Mr. Heifetz has been a generous supporter of the Law School since his graduation in 1937. World War II cut short his practice of insurance law. Upon his return, six years later, he entered the insurance field. He has served on the Law School Visiting Committee and in numerous volunteer capacities within the Fund for the Law School. In 1976, Elmer and his wife Harriet responded to the loss of their daughter by establishing the Cathy Heifetz Memorial, which supports the University's Music Department.

Anonymous gift supports faculty research

An alumnus who wishes to remain anonymous has made a gift of $250,000 to the Law School to establish an endowed fund to support faculty research in the area of private international law.

In supporting scholarly research, this gift addresses one of the Law School's most important priorities within The Campaign for the Next Century. "It is, after all, the scholarly contributions of such extraordinary scholars as Ernst Freund, William Winslow Crosskey, Karl Llewellyn, Harry Kalven and Phil Kurland," Dean Stone noted, "that have added immeasurably to the progress of the law and the reputation and prestige of our Law School. In today's world, it is this sort of research support that makes possible the Law School's continuing contributions to legal thought."

Isaiah S. Dorfman makes bequest

Isaiah S. Dorfman '31, who received his Ph.B. from the University in 1928, has made a bequest commitment of $200,000 as part of the Campaign for the Next Century to help underwrite the University of Chicago Law School Roundtable, the Law School's newest student-edited scholarly journal. In addition, Mr. Dorfman has authorized the University's Board of Trustees to alter the designation of the Isaiah S. Dorfman Prize and Library Fund, which he created in 1976, to serve this same purpose.

Mr. Dorfman's has had a long and distinguished career in the field of labor law. Shortly after graduation, Mr. Dorfman took a position with the National Labor Relations Board. At the same time, he served as an instructor at the National Law School at American University. During World War II, Mr. Dorfman worked with the Office of Strategic Services, where he recruited agents for the United States' intelligence operations in Europe.

Returning home after the War, Mr. Dorfman resumed his practice. He currently is Of Counsel to Lerner Muchin Dombrow Becker Levin & Tominberg, which is the successor to the firm Mr. Dorfman founded.

As a symbol of the Roundtable's gratitude for Mr. Dorfman's very generous support, it will name its office space on the second floor of the D'Angelo Law Library "The Isaiah S. Dorfman Suite."

Lillian E. Kraemer pledges gift

Lillian E. Kraemer, a member of the Class of 1964, has pledged a $100,000 gift to the Law School as part of the Campaign for the Next Century. Pending future designation, Ms. Kraemer has authorized Dean Stone to use this gift to meet the immediate needs of the faculty and students of the Law School and to address opportunities and problems as they arise.

Ms. Kraemer is a partner in the New York law firm of Simpson Thacher & Bartlett, and is one of the nation's leading practitioners in the area of bankruptcy. She has served the Law School in innumerable ways over the years. She is currently a member of both the Law School's Visiting Committee and the University's Capital Campaign Committee for the New York City area. Professionally, she is a member of the Association of the Bar of the City of New York and the New York State Bar Association, and is a
In just two hours on January 29, auctioneer extraordinaire Professor Richard A. Epstein took bids on more than 80 items donated by faculty, students, and friends of the Law School, raising more than $14,000 for the Law Students Association’s Charity Auction benefitting the Blue Gargoyle.

member of the Working Group on the Avoidance Powers of the National Bankruptcy Conference.

In accepting this gift, Dean Geoffrey Stone said, “Lillian’s contribution is an eloquent expression of her confidence in the Law School, and I am delighted both by the scope and the graciousness of Lillian’s philanthropy.”

James Zacharias makes gift to Mandel Clinic

James Zacharias ‘35, who received his Ph.D. from the University in 1933, and his wife, Bobbie, have for many years championed the Mandel Clinic’s Mental Health program. This year, in honor of the University’s Centennial, Mr. and Mrs. Zacharias have made a special gift of $100,000 to support improvements in the Clinic’s facilities. The gift was made under the auspices of the James and Bobette Zacharias Fund of the Chicago Community Foundation.

In addition to his career as a business executive, Mr. Zacharias participated with his brother Richard and Michael Stefanos in the national marketing of that Chicago delicacy, the DoveBar.

Mr. and Mrs. Zacharias have committed much of their lives to public service. Mr. Zacharias currently serves as a director in a number of community organizations.

These include the American Civil Liberties Union, the John Howard Association, which works for prison reform, the Chicago Bar Foundation, and the Illinois Facilities Fund, which finances child care centers.

Mr. Zacharias has been involved with the Law School throughout his career. He has served on the Law School’s Visiting Committee, on the Board of the Law School Alumni Association, as president of the Chicago Chapter of the Alumni Association, and he has chaired or participated in innumerable Class and Law School committees. He and Mrs. Zacharias created The Bobette and James Zacharias Fund in 1982 to support the work of the Mandel Clinic, and in particular its Mental Health Project. In 1984, Jim received the University’s Public Service Citation, recognizing his lifetime of service to the community and the credit it has reflected on his alma mater.

Clinical Professor Mark Heyrman ’77, Director of the Mandel Legal Aid Clinic’s Mental Health Project, characterized the Zacharias’ gift as exemplifying “their long history of caring and providing for the protection of the rights of the underprivileged and the underrepresented. Jim and Bobbie have long been active participants in the activities of the Clinic and advocates on behalf of the people we serve. This gift is yet another manifestation of that extraordinary commitment.”

The annual talent show on February 5 took a talk-show format. Host Bud Oliver ’95 (at right) “interviews” Steve Lichtman ’85 (at left) and Del Kolde ‘95 (center). In addition to performances by saxophonist Kolde and piano player Lichtman, the show included singers and guitarists. Videotaped “commercials” included Professor Lawrence Lessig doing a takeoff on a Gap ad and Christy Kosarek, the Law School’s receptionist, promoting her psychic hotline which “helped” students with questions for finals.
FACULTY NOTES

◆ ALBERT ALSCHULER
Wilson-Dickinson Professor of Law and Arnold and Frieda Shure Scholar
Addressed: University of Georgia Law School, Athens, Georgia, public lecture on Justice Holmes's philosophy of life and faculty workshop on Holmes's philosophy of law; Colorado Chapter of the Order of the Coif, Boulder, Colorado, "The Disappearing Criminal Trial."

◆ MARY BECKER '80
Professor of Law
Addressed: American Bar Association Commission on Women in the Profession and the Chicago Bar Association Alliance for Women, panelist, "Is the Law Male?"; American Political Science Association Annual Meeting, commentator, panel on "Liberal Law and Family Policy"; Chicago Feminist Legal Network workshop on "Feminist Theory"; University of Chicago Divinity School Luncheon Series, "Women and Political Power"; University of Chicago Law School's Public Service Law Week, moderator, panel on "Clinical Legal Education"; University of Chicago Women's Board Program, panelist, "Women and Politics"; University of Illinois at Chicago, College of Nursing, panelist, "Legal Aspects of Issues of Fetal Protection in the Workplace"; Guest on WBEZ radio, "Maternal Feelings: Myth, Taboo, and Child Custody."


◆ KENNETH W. DAM '57
Max Pam Professor of American and Foreign Law
Addressed: Chicago Law School alumni, "The Future of the Economic Community"; Conference of the Center for Legal Resources, panel on "Alternative Dispute Resolution."

Elected to: Board of the Council on Foreign Relations in New York (first election of new board members by membership at large.)


◆ RICHARD EPSTEIN
James Parker Hall Distinguished Service Professor of Law
Addressed: Loyola of Los Angeles Law School, "The Future of Takings Law after Lucas v South Carolina Coastal Council"; University of Southern California, "Should the Civil Rights Law for Private Employers Be Repealed?" (debate with Erwin Chemerinsky); Georgetown Law School, "The Gender Gap in Wages", Hillel Chapter, The University of Chicago, "The Permeable Wall Between Church and State"; Yale Law School, workshop, "A Common Lawyer Looks at the Constitution"; Economic Club of Chicago, "Economic Advice to the Next President" (with Gary Becker, University Professor, Departments of Economics and Sociology).

Elected to: Spokesman, University of Chicago Council.


◆ STEPHEN GILLES '84
Assistant Professor of Law

◆ ABNER GREENE
Assistant Professor of Law

Miscellaneous: Coordinated Law School's first Public Service Law Week; introduced keynote speaker, Nadine Strossen; moderated panels on Criminal Law and Pro Bono.

◆ R.H. HELMHLZ
Ruth Wyatt Rosenson Professor of Law, Director of the Legal History Program, and Arnold and Frieda Shure Scholar
Addressed: Universities of Munich and Regensburg, faculty and student talks on the current state of legal education in the United States; Emory Law School, Harold J. Berman Celebration, "Berman on Legal History."

Published: Canon Law in Protestant Lands (Berlin, 1992).

Miscellaneous: Academic visitor at the University of Tubingen in Germany.
MARK J. HEYRMAN '77
Clinical Professor of Law
Addressed: Illinois Hospital Association symposium on recent developments in the laws governing involuntary psychiatric medication.

Appointed to: Illinois Department of Mental Health and Developmental Disabilities, Policy Review Committee and Forensic Task Force, serve as chair of the Task Force’s Subcommittee on Admissions and Discharges; Illinois Department of Children and Family Services, Use of Restraint, Seclusion and Psychotropic Drugs Reform Panel, serve as chair of the panel’s Psychotropic Drugs Subcommittee.

DENNIS HUTCHINSON
Senior lecturer in Law and Associate Professor in the College, Master of the New Collegiate Division, and Associate Dean of the College
Addressed: St. John’s College (Santa Fe), Annual Alumni Lecture, “Rules and Roles: The Crisis of Captain Vere.”

Awarded: AMOCO Award for Excellence in Undergraduate Teaching.

Appointed to: Master, the New Collegiate Division of the College, The University of Chicago, and Chair, Law, Letters & Society (undergraduate concentration program).


Legal Activities: Consultant, Committee on Constitutional Law, Chicago Bar Association.

Miscellaneous: Member, Council on Teaching; Chair, British Scholarships Committee (both University-wide committees).

SPENCER KIMBALL
Emeritus Professor of Law
Addressed: Drake University, Archie Boe Distinguished Lecture, “Understanding Risk-Based Capital Requirements.”

LYONETTE LOUIS-JACQUES ’86
Foreign Law Librarian and lecturer in Law

Appointed: Associate Editor, Electronic Journal of Virtual Culture; Co-Director, Institute on International Organizations to be held at Harvard Law School Library, July 6-9, 1993.


Miscellaneous: As co-founder with Mila Rush at the University of Minnesota, co-moderates the electronic discussion list for persons interested in foreign and international law and legal material.

MICHAEL W. MCCONNELL '79
William B. Graham Professor of Law, Director of the Law and Government Program, and Co-Director of the Center for the Study of Constitutionalism in Eastern Europe


Legal Activities: Delivered oral argument in Rosenberger v. Board of Visitors of the University of Virginia, in the U.S. Court of Appeals for the Fourth Circuit, November 30, 1992. Delivered oral argument in Richard Garnett, et. al. v. Renton School District, in the U.S. Court of Appeals for the Ninth Circuit, January 5, 1992. Filed amicus curiae briefs in U.S. Supreme Court in Zobrest v. Catalina Foothills School District (on behalf of ten religious and civil liberties organizations in support of petitioner); McNary v. Haitian Centers Council, Inc. (on behalf of former Attorneys General in support of respondent); Church of the Lukumi Babalu Aye v. City of Hialeah (on behalf of sixteen religious and civil liberties organizations in support of petitioner).


Participated in: Conference on "Universal Banking," Brooklyn Law School; Dean's Advisory Council Meeting, George Mason Law School; Federal Reserve Bank of Chicago Midwest Workshop on Capital in Banking; Study mission to Buenos Aires, Argentina, to investigate capital market reform in that country.

Miscellaneous: Visiting Scholar, Cornell Law School; Consultant, Federal Reserve Bank of Chicago's Research Department.

Addressed: University of South Africa, conference on "Crime and Crime Control in the New South Africa," keynote speaker; Aspen Institute, co-moderator with Justice Harry A. Blackmun, seminar on "Justice and Society"; University of Illinois at Chicago, chair, public meeting on "Crime and Crime Control."

Participated in: Meeting of the governing board, National Institute of Corrections, Boston; Meeting of the Chicago Assembly at St. Charles, chaired a plenary session; American Society of Criminology, Annual Meeting.

Appointed: Fellow of the American Society of Criminology.


Addressed: Inter-University Consortium on Poverty Law, with Lisa Parsons and Mark J. Heyman, urging that anti-poverty work become part of the Consortium's purposes.

Member of: American Bar Association's Section on Legal Education and Admissions to the Bar Accreditation Committee for 1992-93.

Miscellaneous: Inspected foreign summer programs operated by University of Baltimore/University of Maryland in Aberdeen, Scotland, and those operated by Valparaiso University and Tulane University in Cambridge, England.


Participated in: Meetings of the National Bankruptcy Conference in Washington and Chicago.

Associate Professor, Department of Political Science and the College, and lecturer in law

Addressed: American Political Science Association, "Courts, Social Movements, and the Language of Rights"; Case Western Reserve University faculty, discussing his book The Hollow Hope: Can Courts Bring About Social Change; Yale University Political Theory Faculty Workshop and Vanderbilt University Law School, "Rights, Preferences, and American Politics."

Miscellaneous: Law & Society Association held a panel on The Hollow Hope: Can Courts Bring About Social Change?

**RICHARD ROSS**

Visiting Assistant Professor of Law


Participated in: AALS conference on property law; Law and Society Association, Summer Institute for Sociolegal Studies.

**RANDBAL SCHMIDT ’79**

Clinical Professor of Law


Legal activities: In Bennett v. Jett, 966 F.2d 207, vacating and superseding 956 F.2d 138 (7th Cir. 1992), the Seventh Circuit ruled that our clients' constitutional rights were violated when the Illinois Department of Human Rights failed to fully process their charges of discrimination, filed in the late 1970s. After two rulings against us by the district court and two reversals by the Seventh Circuit, we are now trying to fashion a remedy for the deprivation of our clients' rights to have their claims decided on the merits. The case affects 3,000 class members.

In On-Line Financial Services v. Illinois Department of Human Rights, 228 Ill. App. 3d 99, 592 N.E.2d 509 (1st Dist. 1992), the Illinois Appellate Court ruled that our client did not lose her claim of discrimination based on the failure of the Department of Human Rights to issue a complaint within 300 days after she filed her charge. As a result of this case, approximately 8,000 victims of discrimination in Illinois did not lose their claims of discrimination.

**STEPHEN J. SCHULHOFER**

Frank and Bernice J. Greenberg Professor of Law, Director of the Center for Studies in Criminal Justice, and Arnold and Frieda Shure Scholar

Addressed: Vanderbilt Law School Faculty Workshop on ways to rethink the organization of indigent defense services.

Appointed to: Editorial board, Journal of Legal Education.


Legal Activities: Participated in the Annual Sentencing Institute for Judges of the Third, Seventh, and District of Columbia Circuits, in Tallahassee, Florida, sponsored by the Federal Judicial Center, and gave a lecture on the subject of plea bargaining under the federal sentencing guidelines.

**DAN SHAVIRO**

Professor of Law and Associate Dean


**GEOFFREY R. STONE ’71**

Harry Kalven Jr. Professor of Law and Dean


Appointed to: Illinois Supreme Court Special Commission on the Administration of Justice; Advisory Board, Institute for Institutional and Legislative Policy, Central European University; National Advisory Board, National Council on Crime and Delinquency; Board of Directors, First Oak Brook Bankshares and Oak Brook Bank.


Legal Activities: Served as a member of Senator Paul Simon’s panel of law school deans who were assigned the task of appointing two members to the newly established Illinois U.S. Senate Judicial Nomination Commission for the Northern District of Illinois.

Miscellaneous: In January, completed a three-year term on the Executive Committee of the Association of American Law Schools.

◆ RANDOLPH N. STONE
Clinical Professor of Law and Director, Mandel Legal Aid Clinic

◆ DAVID STRAUSS
Harry N. Wyatt Professor of Law and Russell Baker Scholar

◆ CASS SUNSTEIN
Karl N. Llewellyn Professor of Jurisprudence, Law School, Department of Political Science and the College, and Co-Director of the Center for the Study of Constitutionalism in Eastern Europe
Addressed: American Association of Law Schools, papers on presidential power (with Lawrence Lessig), multiculturalism in law, social and economic rights in Eastern Europe, and the new Supreme Court; World Institute on Developmental Economics in Helsinki, Finland, on legal control of reproduction; Association for Legal and Political Philosophy, “Theory and Practice”; Stanford Law School and the University of Southern California Law Center, “Reasoning by Analogy”; The University of Chicago Legal Forum symposium, “A Free and Responsible Press,” on “Half-Truths of the First Amendment”; Debated in Washington, D.C., with an official of Vice President Quayle’s Council on Competitiveness, on the general subject of presidential control of regulation.

Participated in: Conference at Harvard Law School on the regulatory state.

Published: The Partial Constitution (Harvard University Press, April 1993).

◆ ALAN O. SYKES
Professor Law

◆ DIANE P. WOOD
Harold J. and Marion F. Green Professor of International Legal Studies and Arnold and Frieda Shure Scholar

Legal Activities: Visited Russia and Belarus as a member of a delegation from the American Society of International Law and the U.N. Association of the United States, focusing on international dispute resolution as well as economic and environmental activities; Prepared a report for the Organization for Economic Cooperation and Development (OECD), with Professor Richard Whish of King’s College, London, examining transaction costs of multiple agency reviews of particular international mergers and studying the possibility of greater international cooperation and process convergence.

Randolph N. Stone, Clinical Professor and Director, Mandel Legal Aid Clinic, received the 1993 C.F. Stradford Award given by the Cook County State’s Attorney’s Office, where in conjunction with this award, two outstanding African American high school students will serve internships.
David A. Kessler '78, Commissioner, Food and Drug Administration, spoke about government service.

Miriam Santos (above), Treasurer of the City of Chicago, spoke about her experiences as a Hispanic in city politics. Ian Ayres (near right), of Stanford Law School, discussed "Discrimination in Bail and Bailbonding." Richard Lazarus (at far right), of Washington University in St. Louis, debated Dr. Michael Greer on "Environmental Regulation: Private Rents or Public Good?"

Senator David Boren (D-Okla.), chairman of the Joint House-Senate Committee on Congressional Reform and Chairman of the Senate Intelligence Committee, spoke on "The New World Order."

Judges Stephen Reinhart (above) and Alexander Kozinski (below), of the 9th Circuit, spoke about "The Agony and the Ecstasy," giving a review of recent developments in the law.
On March 2, the alumni luncheon speaker was Kenneth W. Dan '57, Max Pam Professor of American and Foreign Law, who offered comments on the future of the European Community.

**CLEVELAND**

The first meeting in Cleveland in anyone's recollection took place on October 13. Richard I. Badger '68, Assistant Dean for Admissions and Dean of Students, spoke to graduates and friends on "Recounting Cheating and Bribing: The Things Some People Will Do to Get Into Law School." Richard N. Ogle '61 graciously provided a conference room in the offices of Caffee, Halter & Griswold. Because so many people expressed interest in future meetings, the Law School plans to hold luncheons more frequently in Cleveland.

**DENVER**

Dean Stone reported on the Law School to twenty-six graduates who met in Denver on March 18. The luncheon was held in the offices of Sherman & Howard, where James E. Hautzinger '61 is a partner.

**LOS ANGELES**

The Los Angeles Chapter of the Alumni Association held its annual dinner on February 23 at The Regency Club. Mary Becker '80, Professor of Law, spoke after dinner on "Conservative Free Speech and the Uneasy Case for Judicial Review." Dean Stone, Holly Davis, and Dennis Barden, Assistant Dean and Director of Development for the Law School, attended the dinner. Admitted applicants for the class of 1996 living in the Los Angeles area were invited to attend the dinner as guests of the Law School.

**MINNEAPOLIS**

Newly elected Congressman David Minge '67 joined Minneapolis/St. Paul graduates for a luncheon on December 17 in Minneapolis. Holly Davis traveled to the Twin Cities to join graduates hearing Congressman Minge speak about his experiences running for office. Duane Krohnke '66 hosted the event at the offices of Faegre & Benson.

The New York Chapter's (almost) annual dinner took place at The Quilted Giraffe shortly before its closing. Owner and Chef Barry Wine '67 is pictured above with Ronald Coase (center), Clifton R. Musser Professor Emeritus of Economics, and Susan Wine (at left).
NEW YORK

The annual dinner for New York area graduates took place on November 23, 1992. Graduates enjoyed a fabulous dinner especially prepared by Barry Wine '67 at The Quilted Giraffe. Dean Stone brought New York graduates up-to-date with developments at the Law School. Ronald Coase, Clifton R. Musser Professor Emeritus of Economics and 1991 winner of the Nobel Memorial Prize in Economics, offered brief remarks after dinner. Visiting Professor of Law Gareth Jones joined alumni at this final dinner at The Quilted Giraffe, which marked the restaurant's closing. Also in attendance were Holly Davis and Dennis Barden.

The series of lunches for alumni and friends in New York resumed on March 12. The speaker was Eleanor B. Alter, a partner at Rosenman & Colin, who practices primarily in the area of family law and is a Visiting Professor at the Law School. She spoke about "Uncivil Wars." Nancy Lieberman '79, president of the New York Chapter, provided a conference room in the offices of Skadden Arps Slate Meagher & Flom for the luncheon meeting.

SAN FRANCISCO

On January 7, Lawrence Lessig, Assistant Professor of Law, discussed "Reading Their Constitution Now" with graduates from the Bay area. Cary Klafter '72 introduced the speakers. Dean Stone also attended and provided an update on the Law School.

WASHINGTON, D.C.

Sixty-two graduates and friends met on February 16 to hear Dr. David A. Kessler '78, Commissioner of the Food and Drug Administration, speak at the luncheon sponsored by the Washington, D.C. Chapter of the Alumni Association. Ricki Tigert '76 offered space at Gibson Dunn & Crutcher for the meeting.

SAN DIEGO

Walter J. Blum '41, Edward H. Levi Distinguished Service Professor Emeritus, spoke about the Law School to twenty-three graduates and friends gathered for the alumni luncheon on February 23 in San Diego. The meeting took place at McDonald, Hecht & Soldberg thanks to Jerold Goldberg '73, president of the San Diego Chapter.
Class Notes Section – REDACTED

for issues of privacy
Terry J. Hatter, Jr. '60 rules Navy's ban on gays and lesbians is unconstitutional

As the Clinton Administration in February reached an agreement to suspend most restrictions on military service by homosexuals, U.S. District Judge Terry Hatter, Jr. ruled that the Navy had unconstitutionally discriminated against Navy Petty Officer Keith Meinhold. The ruling marked the first time the government had been forced by a court to reinstate a gay service member.

A Los Angeles federal judge for 13 years, Judge Hatter has frequently shown a willingness to make bold decisions on a wide range of topics.

Over the years, the 59-year-old jurist also has sought to broaden the rights of immigrants, limited the severity of sentences for low-level drug couriers, questioned the conduct of law enforcement officials and expanded civil servants' rights of free speech.

He has taken on the Bureau of Prisons, the Drug Enforcement Administration, the Immigration and Naturalization Service, the Justice Department, the Los Angeles Police Department and the Los Angeles County Sheriff's Department.

Attorneys who have followed the judge's career were not in the least surprised when Judge Hatter ordered the Navy on January 28 to reinstate Petty Officer Keith Meinhold, (ruling that the Navy's ban on gays and lesbians is unconstitutional).

"He has a tremendous sensitivity to the rights of individuals when they are faced with the awesome power of the government," said North Hollywood criminal defense lawyer Mary Gibbons.

"He'll take a risk if there's no clear case against him. There are a lot of judges who won't," said American Civil Liberties Union lawyer Carol Sobel, who has won and lost cases before Judge Hatter. "I don't think the fear of being overturned by a higher court shapes the way he evaluates a case."

Judge Hatter scoffs at the idea that he is a particularly courageous judge, as one of Meinhold's attorneys described him.

"I'm flabbergasted when I receive compliments about a decision. Many of the decisions that are contentious bring out hate mail," Judge Hatter said in an interview... a few days after issuing the Meinhold decision.

The ruling was released just hours before the Clinton Administration, military leaders and Senate Armed Services Committee chairman Sam Nunn (D-Ga.) reached an agreement on a new policy to suspend most restrictions on military service by homosexuals.

Judge Hatter has declined to discuss his order, which declared that Defense Department justifications for its policy banning gays and lesbians from military service were "based on cultural myths and false stereotypes." He did, however, offer this insight into his judicial philosophy.

"To use the words of Spike Lee, I see myself doing the right thing," Judge Hatter said. "When the law is murky, I try to do what's just. When the law is clear, I have to follow it."

After graduating with honors from [The University of Chicago Law School], Judge Hatter was in private practice briefly and spent a year as a Cook County Public Defender. Then, he and his wife, Trudy, a teacher, headed west.

Judge Hatter was a federal prosecutor in San Francisco from 1962 to 1966. He served as chief counsel of the San Francisco Neighborhood Legal Assistance Foundation, regional legal services director for the Office of Economic Opportunity and headed the Western Center on Law and Poverty.

In 1974, Judge Hatter was chosen by Mayor Tom Bradley to be his first director of criminal justice planning and was a Los Angeles County Superior Court judge for three years before President Jimmy Carter nominated him for the federal bench in 1979.

This excerpt of an article entitled "Judgment Calls" and written by Harry Weinstein, is reprinted by permission. © Copyright, 1993, Los Angeles Times.

The Honorable Stephen A. Schiller, along with Hon. Willard J. Lassers '42, recently participated in a Chicago Bar Association panel on Current Motion Practice in the Cook County Law Division.

Mary Ann Glendon, Professor of Comparative Law at Harvard University School of Law, received the Triennial Coif Book Award, which is given once every three years to the best book in the realm of legal scholarship, for her book The Transformation of Family Law: State, Law, and Family in the U.S. and Western Europe. Herma Hill Kay '59 made the presentation in a ceremony at the American Association of Law Schools conference in San Francisco in January.
Duane Krohnke '66—pro bono asylum lawyer

Duane Krohnke's involvement with aliens seeking political asylum began as a function of his work as a corporate litigator. The client was The American Lutheran Church (now The Evangelical Lutheran Church in America), which along with his church, The Presbyterian Church (U.S.A.), and four of their Arizona congregations, was suing the United States government in federal court in Arizona over what ultimately was determined to be the unconstitutional sending of spies into churches involved in the Sanctuary Movement.

Since immigration law was an important part of this case and since Mr. Krohnke did not know any immigration law, he signed up for the Minnesota Advocates for Human Rights' seminar to train general lawyers so they could represent aliens seeking political asylum. His subsequent asylum work resulted in his receiving the organization's 1991 Human Rights Volunteer Award.

Equipped with some knowledge of asylum law and having the support of a skilled immigration attorney, he began to represent Central Americans. His first client was a young man who feared persecution in El Salvador by both the government and the guerrillas. Over the following years, other Salvadorans and an Afghan became Mr. Krohnke's clients.

To represent these Salvadorans, Mr. Krohnke learned about the recent history of El Salvador and U.S. foreign policy regarding that country and made two trips to El Salvador.

These experiences, he says, have enriched his spiritual and religious life and significantly altered his concept of law and the role of an attorney. Mr. Krohnke explains, "Because we have so much law in the United States and because so much of it is so complex and difficult to learn, we lawyers tend to have a positivist view of law, i.e., the only law that exists is what is written down in a constitution, statute, regulation or rule, or a case. Notions of justice are crowded out."

Krohnke notes that being in El Salvador brought home to him how much is missing in this positivist view of law. "There was constant reference in that country to 'human rights' without any citation to decided cases or statutes," he says. "I frequently saw framed copies of the Universal Declaration of Human Rights in El Salvador and gained a new appreciation for something I had never seen as law. All of this reminded me of our Declaration of Independence, too long ignored in our legal education and thinking. In other words, rights precede governments, statutes, regulations and cases, and the Ninth Amendment in this context makes a lot of sense."

Krohnke has found that being a pro bono asylum lawyer requires you to be both a skilled technician and a counselor and that the work provides a deep sense of satisfaction of really helping someone.

Krohnke notes, "None of us can solve all the world's suffering. But each of us can do something to ameliorate this suffering." Krohnke invites other attorneys to join him in volunteering through groups like those listed below.

- Minnesota Advocates for Human Rights, Refugee and Asylum Project, 400 Second Avenue South, Suite 1050, Minneapolis, MN 55401; (612) 341-3302.
- San Francisco Lawyers Committee for Urban Affairs, Immigrant and Refugee Rights Project, 301 Mission Street, Suite 400, San Francisco, CA 94105; (415) 543-9444.
- El Rescate Legal Services, 1340 S. Bonnie Bree St., Los Angeles, CA 9006; (213) 387-3284.

This material is adopted with permission from an article entitled "And Then There Was Light," written by Duane W. Krohnke for Minnesota's journal of Law & Politics.

Giving Update: As of December 31, 1992, the Class of 1966 contributed a total of $22,043, with 28% participation and an average gift of $580 (compared with the previous year's final total of $21,048, with 45% participation).

Patricia Horan Latham has co-authored, with her husband Peter S. Latham, a book in the disability law area entitled Attention Deficit Disorder and the Law, published by JKL Communications in Washington, D.C. The couple are co-founders of Beacon College, Leesburg, Florida, a four-year college for students with learning disabilities. Peter B. Roth was recently elected to the American College of Real Estate Lawyers.

Class Correspondents
Ann Lousin and Celeste Hammond
The John Marshall Law School
315 South Plymouth Court
Chicago, Illinois 60604

No news—and the best news! We are using our space in this issue to remind everyone to come...
the apparent gridlock of the Reagan-Bush years, Congress has passed significant civil rights legislation, with the help of his group. Among the bills of which he is most proud are the Civil Rights Act of 1991, the Americans With Disabilities Act, and the Voting Rights Language Assistance Act of 1992.

Professor Shimon Shetreet was elected to a second term in the 13th Knesset and appointed Minister of Economy and Planning by Prime Minister Yitzak Rabin. He also edited “National Security and Free Speech” in 1991.

Paul Stokes currently serves on the Board of Directors of the Dade County Bar Association while practicing trusts and estates at Kelley Drye & Warren. On the side, he teaches high school Sunday School classes at his church.

The National Association for Public Interest Law recently honored Esther Lardent for outstanding service to the underrepresented and disenfranchised. She is Chief Consultant for the American Bar Association Postconviction Death Penalty Representation Project.

Giving Update: As of December 31, 1992, the Class of 1972 contributed a total of $15,100, with 29% participation and an average gift of $343 (compared with the previous year’s final total of $16,354, with 32% participation).


Nicholas A. Ashford, Professor of Technology and Policy at Massachusetts Institute of Technology, has recently coauthored three books in the area of environmental

Bob Barnett ’71 —
debate coach for Clinton

Barbara Bush may think she knows her husband well. But Bob Barnett [’71] . . . might know his mind even better. When NBC “Today” show host Katie Couric interviewed (President Bush) two weeks before election day, Barnett, who listened to the interview in his Washington, D.C., kitchen, answered Couric’s questions before Bush and with 99 percent accuracy, he claims.

One of his specialties is knowing President Bush’s mind. For the presidential debates, Barnett played Bush in the Clinton preparatory sessions. “He’s trained himself to be the greatest George Bush impersonator of all time,” said Peter Osnos, a Random House Publishing Co. executive. “People who saw him in dress rehearsal say he makes Dana Carvey look like an amateur.”

Carvey, a comedian on NBC-TV’s “Saturday Night Live,” has perfected a popular Bush impersonation. Unlike Carvey, Barnett mimics Bush’s policies and programs, not his voice and mannerisms.

Playing Bush is a role with which Barnett, 46, has become familiar over the last eight years. In 1984, to prepare vice presidential candidate Geraldine Ferraro for her debates with Bush, the former legislative assistant for Sen. Walter Mondale played Bush. In 1988, [he] . . . rereprised the role for Michael Dukakis.

Barnett’s award-winning debate style was most useful in the Clinton debate prep sessions. “I researched everything,” said Barnett, who donated his time as a volunteer. “I assembled 89 subject areas and learned them as if I were briefing Bush.”

The five-inch-thick briefing book included speeches, press conference transcripts, news analyses, articles, “anything that would accurately reflect Bush’s view, short of talking to psychologists,” Barnett said.

Barnett’s daily habit of watching each network evening newscast and reading four newspapers was another asset, he said. Before the third debate, Barnett watched everything Bush did to try to predict what the president would do during the debate.

“At a speech in Edison, N.J., Bush telegraphed everything he would say,” said Barnett, who used the information in rehearsals with Clinton. Even though Barnett has played Bush for 12 years, the role wasn’t boring, he added. “In 1984, Bush’s role was to defend Reagan’s record. That debate was about Reagan and foreign policy. The 1988 debate focused on eight years of Reagan and Bush’s role as vice president. In 1992 the economy and the Bush record were central issues.”

Actual hours of debate preparation are difficult to calculate, said Barnett. “Starting four days before the first debate and ending the day of the last debate, we really worked hard, but every day was different,” he said. “We’d work a minimum of 4-5 hours a day and sometimes as many as 10 hours a day. Many days the team worked well beyond that. The estimates don’t include the hundreds of hours of work assembling research before you get to that point.”

“Because of the role he played in the debates, he’ll be everyone’s favorite Washington lawyer,” forecasts Kenneth Dam [’57], a University of Chicago Law School professor who taught Barnett. “There’s a role for these senior people who know how Washington works and are on good terms with everyone.” . . .

This excerpt of an article entitled “There’s lots of Hollywood in a top Washington practice” and written by Ann Therese Palmer, is reprinted by permission. © Copyright, 1993, Ann Therese Palmer.
A link to the Law School's beginnings—

Sheldon Tefft

Sheldon Tefft, James Parker Hall Professor Emeritus of Law, died November 17, 1992 at the age of 92 in West Lebanon, New Hampshire.

Mr. Tefft is survived by his wife, Elizabeth, and twin sons, Samuel of Philadelphia and Fred of Hanover, New Hampshire.

He received his A.B. in 1922 and LL.B. in 1924 from the University of Nebraska, and his B.A. in 1926, B.C.L. in 1927 and M.A. in 1932 from Oxford, where he was a Rhodes Scholar. While at Oxford, Mr. Tefft became the first American to receive the Viverian scholarship prize.

Professor Tefft joined the Law School faculty as Visiting Professor in 1929. He had been an assistant professor at the University of Nebraska for the two previous years. He was named Assistant Professor in 1931 and Professor in 1940. Mr. Tefft served as Acting Dean of the Law School from 1943 to 1945. He was named James Parker Hall Professor in Law in 1961 and became emeritus in 1968.

After leaving Chicago, Mr. Tefft taught in the Sixty-Five Club, a program offering distinguished scholars the opportunity to teach beyond retirement at the University of California's Hastings College of Law in San Francisco. He left teaching in 1978 and settled in New Hampshire.

Bernard Melzer '37, Distinguished Service Professor Emeritus of Law, who knew Mr. Tefft both as a teacher and a colleague, recalled, "Sheldon Tefft had close ties to the law school's early faculty. For a long time, he was the link between the 'old timers' and the 'newcomers.' Indeed, as Edward Levi has said, Sheldon represented, in an important way, the entire history of the school. He was proud of that history and pleased with his involvement in it. "Sheldon was a wonderful teacher. He was a master of the so-called 'case method.' He was especially effective in stimulating his students—almost all of them—to engage with him in a critical analysis of how law is determined, applied, reformulated, and changed. He had a dazzling intelligence and a keen sense of humor. He broadened our perspectives by drawing on the English common law, English history and institutions. His mastery and love of those subjects was, of course, connected with his work as a Rhodes Scholar at Oxford, which had an important influence on him.

"Some of Sheldon's aspirations for his students fit in with his experience as a Nebraska farmer, as well as a Rhodes Scholar. He wanted them, like good farmers, to have the common sense and the instinct for the workable that a lawyer needs. He also wanted them to know something of the history, culture, and the humanistic aspects of the common law. He was close to many of his students and encouraged them to read classics of the common law: Hale, Coke, Maitland, and Maine, among others. Sheldon helped make such materials accessible by guiding the law library's acquisition of a strong collection of early common law treatises and cases.

"All that he did in the classroom was enhanced by his voice, which boomed out of his tall, lean frame, cheering a good point, pouncing on any intellectual flabbiness, and always resonating with his own uncompromising intellectual honesty.

"After I joined the faculty, I saw the impressive contributions Sheldon consistently made to the Law School's administration. The programs for the Bigelow Fellows and Commonwealth Fellows (which our more venerable alumni may recall) are among the many activities that benefited because his administrative work was like all of his work. It reflected care, rigor, imagination—and also deep devotion to the Law School."
DEATHS

The Law School Record notes with regret the deaths of:

Elliott A. Johnson '30, a partner in the firm of Johnson, Wurzer & Tingleaf in Houston, died on January 15, 1993. Born in Soldier, Iowa in 1907, Mr. Johnson earned his Ph.B. at the University of Chicago in 1928 and graduated from the Law School in 1930. He had been Vice President for Finance, Treasurer, and General Counsel of Schlumberger Technology Corporation, having worked for that company 32 years before returning to the private practice of law. In the 1940s, he served as Vice Chairman and Acting Chairman of the Citizens Charter Committee, which replaced Houston’s Commission form of government with a City Manager form of government. Mr. Johnson was for many years a leader of the Law School’s alumni contingent in Houston and a generous supporter of the Fund for the Law School.

1919
Charles Grimes
November 13, 1992

1924
Julian Harris
March 5, 1993

1926
Gerald R. Gorman
October 28, 1992

1927
Martha Evans
February 9, 1993

1930
Spencer D. Parratt
October, 1992

1931
Robert Snow
November 6, 1992

1934
Maurice Kraines
November 21, 1991

1936
Herman Odell
January 9, 1993

1939
Lester K. Olin
December 17, 1992

1939
The Honorable Dwight McKay
February 6, 1993

1941
Thomas Checkley
November 10, 1992

1945
Robert A. Simon
October 30, 1992

1948
The Honorable Howard T. Savage
October 7, 1992

1948
Baxter Richardson
May 5, 1992

1950
William Boylston
December 27, 1992

1952
Dennis Martinez-Irizarry
August 10, 1992

1955
Standau E. Weinbrecht
August 27, 1992

1956
William L. Foreman
October 10, 1992

1959
Darrell Kellogg
April, 1992

1961
Donald L. Janis
October 16, 1992

1967
Bernd Rüster
August 22, 1992

1976
Mary Grear Gump
October, 1992

1977
Stephen S. Mayer
December 18, 1992

1994
J. Bryant Neilsen
November 25, 1992

1994
John P. Madigan
February 11, 1993