AN AFTERNOON OF ART

OVER ONE HUNDRED
INVITED GUESTS AND
FRIENDS GATHERED IN
THE LAW SCHOOL'S HAROLD
J. GREEN LAW LOUNGE ON
OCTOBER 23 FOR AN AFTER-
NOON OF ART. THE RECEP-
TION HONORED TWO ARTIS-
TIC MILESTONES IN THE
HISTORY OF CHICAGO'S
UNIVERSITY OF CHICAGO'S
ALFRED SMART MUSEUM OF
ART AND THE FORMAL PRE-
SENTATION OF THE NEW
WALLS OF THE GREEN
Lounge. Over a year in
the making, the four
abstracts were com-
misioned by the law school.

Judy Leigerwood Paint-
ing The Making of the Four
abstracts which grace the
walls of the green Lounge.

Kimberly Roschach
as director of the
university's David and
Alfred Smart Museum of
Art and the formal pre-
sentation of the New
Walls of the Green
Lounge. Over a year in
the making, the four
abstracts were com-
misioned by the law school.

With the generous help
of Miss Marion E. Green.
Four workers were needed to carry and install the paintings into their steel frames and mount them onto the wall. The artist was on hand to sign her art and discuss the work with Law School professors.

Two of the paintings in their final positions. The Sunday afternoon reception was the first opportunity for members of the University community and friends to view the paintings and greet the artist.
"The [Ledgerwood] paintings can be read metaphorically as the four seasons, four times of the day or four directional coordinates as they orient us in this space to respond specifically to the light levels in each corner. Those very same natural conditions will have their particular effect on the paintings which will in turn vary as the seasons and light evolve and change."

Judith Russi Kirshner
Curator and director of the School of Art and Design at The University of Illinois at Chicago
VOLUME FORTY-ONE + SPRING + NINETEEN-NINETY-FIVE

THE UNIVERSITY OF CHICAGO LAW SCHOOL

RECORD

FEATURES

Dean's Page

Madison, the State, and Public Choice
Judge Frank H. Easterbrook '73 explains how keenly aware James Madison was to the dangers and benefits of interest groups and how his efforts to keep them in check may need re-evaluation.

Taking Amendments Seriously
Tinkering with the Constitution is an old congressional pastime. Suzanna Sherry '79 examines past attempts and what lessons they may hold for the current Congress.

Walter J. Blum
1918-1994

DEPARTMENTS

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Help the Law School Keep in Touch.
It doesn't take reading all the Class Notes (although we do) to know graduates of the Law School are busy. So we are always looking for convenient ways for graduates to keep the Law School informed of changes in home and business addresses. That is why the Law School's address maintenance office now has voice-mail. In addition to letters and postcards, graduates now can call in their address updates. The number is 312/702-7527. So keep those cards and letters—end calls—coming.
Walter Blum began his tax class the same way each year. He announced that the dean had just offered him a raise and then asked if he might be better off turning the raise down because of its tax consequences. Each year, the first student would respond that, in theory, he would be better off rejecting the raise because it might push him into a higher tax bracket. The ensuing class discussion focused on the basic principles of progressive taxation and the way that higher rates applied only at the margin and therefore never left anyone with less income than before.

The puzzle for young faculty at the Law School was how it was for nearly fifty years no student of Walter’s could ever get this question right the first time. Generations of students who took this class went on to have distinguished careers as tax lawyers; yet as great as Walter was as a teacher, why did his class always begin with a misunderstanding of the difference between marginal and average tax rates?

The secret, Walter once told me, was being able to look at the way students raised their hands when he asked the question. Walter could tell from the way students held their hands how they were going to answer the question. At this point, it was a simple matter to pick a person who would answer incorrectly. Like the seasoned litigator, Walter never asked a question without knowing first how the student was going to answer it.

The ability to teach effectively demands many skills. Some—such as the gift to know what students are going to say by their body language—are not within the grasp of more than a handful, even in Chicago. Other skills, however, are hallmarks of teachers at the cutting edge and have always been widely shared at the Law School. One of the most important is the need to be involved in creating and shaping the legal world around us.
involved in creating and shaping the legal world around us.

Karl Llewellyn, Grant Gilmore, Allison Dunham, and Soia Mentschikoff pursued such a course, and, by drafting the Uniform Commercial Code, they became the authors of the laws they taught. To be sure, they tracked changes in the law, but, to a large extent, changes in the law tracked them. Randy Picker today follows in their footsteps. He serves as a member of the National Conference of Commissioners on Uniform State Laws, and as I write this paragraph, he is working with a group of lawyers on revisions to Article 9 of the U.C.C. Diane Wood, during her leave in the Antitrust Division of the Justice Department over the last eighteen months, has similarly shaped the law she will be teaching.

Many of my colleagues have a passion for learning the law that never stops. Bernard Meltzer is presently immersed in analyzing proposed changes in the rules of evidence and Jo Desha Lucas continues to edit Moore’s Federal Practice, the standard work on federal civil procedure. He remains one of the leading authorities in the field of practice and procedure. Norval Morris’s work on criminal justice has involved him in many aspects of penal reform. During his work inside Stateville Prison several years ago, he came to know a jailhouse lawyer. Norval became convinced that the man was wrongly convicted of armed robbery. Over the course of several years, Norval, working with a number of others, had the case reopened. By reexamining the evidence for fingerprints, the actual robber was found. The former jailhouse lawyer is now a paralegal.

Constitutional law is traditionally one of the Law School’s great strengths. Over the years members of the Law School faculty have taken many opportunities to shape constitutional issues. Bob Ming, for example, took part in briefing Brown v. Board of Education. Edward H. Levi argued two habeas corpus cases, Woods v. Nierstheimer and Young v. Ragen. Philip Kurland was well-known for his Supreme Court briefs and arguments. He submitted a number of briefs including one for Pasadena City Board of Education v. Spangler, which was argued by former dean Phil C. Neal.

This winter, Michael McConnell argued Rosenberger v. University of Virginia, which the Supreme Court will decide in June. In this case, the university declined to fund a student newspaper with an explicitly religious point of view. As a public university, it believes that funding the newspaper would violate the First Amendment’s establishment clause. The plaintiff asserts that the university, which funds other student newspapers, violated his First Amendment right of free speech.

The globalization of legal practice has affected constitutional law as much as any other field. Larry Lessig, whose work focuses on structural and interpretative issues in constitutional law, organized a constitutional convention at the Law School last October for the newly independent republic of Georgia. The choice of the Law School as the convention site was not as strange as it might at first seem. The Center for the Study of Constitutionalism in Eastern Europe has a collection of resources on the constitutions of emerging nations that is unmatched and its reputation for scholarly integrity is internationally respected. Georgian President Eduard Shevardnadze, among many others, knew that we could provide logistical support and intellectual insights without imposing our notions of the kind of constitutional structure best for Georgia.

To remain on the cutting edge as a teacher requires direct involvement in the leading legal issues of our time. It is that commitment which enriches the academic experience of students at the Law School and prepares them to be leaders in all areas of legal practice, government, and academia. And it is that commitment to which we, as the successors to Walter Blum, Harry Bigelow, Harry Kalven, and Soia Mentschikoff, must continue to dedicate ourselves.

Douglas G. Baird is the Harry A. Bigelow Professor of Law and dean of the Law School.
As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed. As long as the connection subsists between his reason and his self-love, his opinions and his passions will have a reciprocal influence on each other; and the former will be objects to which the latter will attach themselves...
James Madison was the leading force behind the Constitution, wrote the Bill of Rights, and served as President for eight years. He believed the greatest danger the nation faced was faction. In *Federalist* No. 10, the best essay in political theory penned on this side of the Atlantic, Madison explained how the structure of the new federal republic would bring the worst effects of faction under control.

Faction, according to No. 10, is "a number of citizens ... who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community." Self-interested voting is a scourge of all republics, breeding contention, oppression, local favoritism, beggar-thy-neighbor policies. It has brought down efforts at democracy around the globe, and throughout history. It must be conquered—yet, Madison thought, it cannot and must not be conquered.

Self-love dominates even when people know intellectually that virtuous conduct is better. Often self-interest should dominate (it leads to Adam Smith’s Invisible Hand, with benefits for all). And when the conflict between self and virtue is irreconcilable, cognitive dissonance leads people to conclude that civic virtue and personal ends coincide. Once this mental transformation occurs they are impervious to rational argument.

Faction is not only strong but also beneficial, and therefore must be tolerated. The division of labor is a boon yet also the source of faction. Landholders, farmers, merchants, academics, and so on all stake out claims. To have prosperity we need separation of function. Religion and other ingredients of moral life also ensure faction. Differences are to be treasured, are a hallmark of freedom, are an objective of our government. Yet they are faction, and in the end may destroy our government.
How can we escape this fate? We do not want to extinguish the differences we cherish, and if we wanted to do so we could not without eliminating the role of the governed in public choice—without the tyranny this republic was established to avoid. Madison and his colleagues in the Convention sought to ameliorate rather than eliminate faction in two principal ways: indirect democracy and fragmentation of the electoral base.

Yet Madison’s predictions about the relation between the national government and faction have not come true. Private-interest legislation is common today, much more so than in 1787, and more common at the national level than among the states. Why?

1. Representatives’ willingness to put virtue ahead of constituents’ interests and the belief that groups cannot coalesce at the national level depend on slow communication and costly transportation. These impede coordination and monitoring; by the time groups learn of legislative proposals, it may be too late. Times have changed; now factions monitor their representatives by C-Span. Congress has evolved a structure that reduces members’ leeway. Members serve on committees, which as gatekeepers to the floor and the principal drafting institutions are highly visible to factions. Interest groups can monitor the behavior of a few committee members much more closely than they can track all members of Congress. The Administrative Procedure Act, hailed by many on “good government” grounds because it exposes agency action to public view and invites input, is anti-Madisonian. Extended rulemaking procedures and numerous oversight hearings augment the relative power of faction.

2. Cheap transportation and communication mean a larger market. This cuts the power of states (exit is easier) but increases the division of labor. More specialization enhances productivity but also produces more, and more powerful, interest groups. Recall that Madison defined faction as a group with a special interest, something they shared but the general public did not. Greater specialization in production means more factions, and each faction will be more cohesive, for reasons developed immediately below.

3. The gravest obstacle to faction is free riding. People who could influence legislators, if they tried, need a good reason to try. If other persons similarly situated will do the job, any particular member of the group can sit on the sidelines.

The plan elaborated in Federalist No. 10 thus lies in the design of political institutions, which can bend self-interest to the public good.

Direct democracy will fall victim to faction, Madison thought, for it encourages everyone to vote his own preferences. Government by elected representatives, whose self-interest is not at stake for the vast majority of votes, and which at any event is not identical to the interest of the constituents, may solve the problem. Mediating among many factions, the representative answers to none.

Elections from different states with different factions dilute the power of faction. Merchants may dominate in Pennsylvania and tobacco growers in North Carolina—neither dominates the larger republic. “Extend the sphere and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other.” Diversity that is a source of faction locally thus becomes the security in a larger jurisdiction. Fragmentation is to be pursued in a thoroughgoing manner. Different states establishing different qualifications for voting; different districts to represent (portions of states for representatives, whole states for senators, the entire nation for the President); different electors (the people for representatives, state legislatures for senators, the electoral college for the President); different tenures (from two years for representatives to life for judges).

The plan elaborated in Federalist No. 10 thus lies in the design of political institutions, which can bend self-interest to the public good. Adam Smith believed that competition in markets would bend self-interest to the public good. Madison’s diagnosis and prescription are the same. Smith lauded competition among producers of private goods and services; Madison sought to promote competition among suppliers of public services. The effort to cope with and even exploit, rather than deny, the effects of self-love, coupled with a belief that the design of political institutions matters a great deal, make Madison the progenitor of modern public choice.
reaping the benefits without incurring the costs.

Your group prevails if its free riding problem is less serious than that afflicting your rivals. In many ways the most powerful groups are those that the conventional wisdom treats as powerless: for example, minorities that have limited agendas, and from which dropping out is not an option, and dairy farmers who are small in number and whose upbringing and way of life make dropping out of the group very costly. Gains per person are larger in small, cohesive factions.

Madison was concerned about, and designed the government to avoid, capture by majority factions. Madison was right in appreciating that the structure of this society would produce interests and sects in profusion, but he did not appreciate how easy it would become to organize these groups from coast to coast.

4. Although as Madison observed the national government is harder to capture—there are more contending interests, many with powerful reasons to resist factions’ demands—there is also a greater gain in sight. No state could effectively regulate the price of labor or the cost of automobiles. People and plants can move too easily, and the Constitution denies states the power to erect tariffs at their borders with other states. Because it is much more costly to emigrate from the United States than to move to another state, the national government has much more potential power, creating a reason for factions to concentrate their efforts there.

Factions strive mightily to suppress the power of exit. National legislation is ideal for this purpose. In the last analysis there is no reason to conclude that the federal government is less vulnerable to faction once the factors that created agency space in which virtuous legislators could operate have fallen. The national government will enact fewer private-interest laws than the aggregate of state and local governments—but the costs of each will be greater.

5. The value of factious legislation at the national level has risen with the government’s command of resources. The Sixteenth Amendment, authorizing an income tax without apportionment among the states, gives the national government control of whatever portion of the economy it wishes to exercise. This makes it the prime target for faction. Simultaneously, the Seventeenth Amendment cut down the constraints by removing state legislatures from any role in the selection of senators.

What can we learn from these developments? Madison set out to design a governmental structure that would harness faction to public ends. Two centuries of experience yield many implications for those who share Madison’s vision of a republic in which the choice of institutions can reduce the influence of faction.

1. Altogether too much of the contemporary discussion about the allocation of governmental functions is cast in terms of claims about what the Constitution commands or permits. Perhaps it is inevitable that lawyers and professors of law will turn to the most fundamental law when looking for answers to the most fundamental questions. But as the founding generation recognized, the price of establishing an enduring Constitution is a high level of generality. Beyond dividing the government into branches and establishing a few rules for their operation, the Constitution has little to offer—or so the Supreme Court has come to conclude. Debating the constitutional boundaries is an interesting intellectual exercise, and an important one for questions of legitimacy under the existing Constitution. But if we wish to know how governance proceeds, we must concern ourselves with the functional questions that occupied Madison and not become preoccupied with a debate about the meaning of the words Madison left us.

2. An unproductive rhetorical to-and-fro about administrative agencies should not detain us. On the one hand are those who say that agencies bring us expert administration, specialists free from political sway to enforce the law correctly and make expert discretionary judgments. This is the public argument for agencies, and it appears in judicial opinions incessantly. On the other hand are those advancing the claim that a unitary executive will promote energy in public administration, that government without a single coordinating hand is internally divided, weak, even incoherent, and of course irresponsible (because there is no one to take the blame).

This debate is beside the point. The choice is not expertise versus vigor and coordination. These are ideals, claims based on virtue in government. Proposals based on these ideals—to appoint better people, to produce more openness, and so on—miss the genius of Madison’s recognition that ideals of virtuous administration direct attention away from how government operates in practice.

Consider for a moment the case of administrative agencies. We must discard claims based on “expertise” and “vigor” so that we may see the real effect of “independence.” The most important feature of the “independent” agency is not the tenure of its members but their isolation from the executive branch. A President may resist claims by factions in the way Madison envisioned: by adding other items on the agenda. Agencies devoted to single industries lack threats; they cannot promise to veto Bill X if Congress takes step Y. The absence of logrolling means that committees in Congress have extra influence—more to the point, that power has been transferred from the President (with a national constituency) to the committee chairmen, who serve longer and are on average farther from the national median view of politics. (Chairmen are tied to the very local interests that Madison dubbed faction; Presidents are not.)

If you doubt this, consider the case of antitrust enforcement, a natural experiment because carried out by both an agency (the Federal Trade Commission) and a unit of the executive branch (the...
Antitrust Division of the Department of Justice). Antitrust law is supposed to ensure that consumers receive the benefits of competition. But it may be used to suppress competition: a prosecutor may initiate actions against firms that are competing too strongly, to the detriment of producers. From Madison’s time to ours, students of politics have recognized that producers are concentrated relative to consumers and so can overcome the free rid-
ing problem that obstructs collective action more readily than consumers. Thus a Madisonian prediction, fortified by twentieth century public choice theory, is that producers have considerable influence over many localities, but that representatives elected from the entire nation (principally the President) are more inclined to favor consumers. Because the seniority system in Congress gives the representatives of a few localities more influence over the FTC than the Antitrust Division, we should expect the FTC to do more to protect producers and the Antitrust Division to do more to protect consumers.

This is what a series of careful empirical studies has found. When the FTC challenges a merger, the stock prices of firms in the industry rise, which one would expect if the challenge is designed to aid producers; when the Antitrust Division challenges a merger, the stock price falls, what one would expect if the action is designed to assist consumers. The judiciary, with its wider constituency, has been in recent years on the side of consumers, being deeply suspicious of suits filed by producers against their rivals. But despite changes in Administrations and dramatic philosophical differences among Presidents, the FTC has been responsive to producers’ interests—particularly if the producer has a plant in the district of a member of the legislative committee that superintends the FTC’s budget.

Findings like these show the wisdom of Madison’s plan, with administration of the law answering to the national constituency. Today, however, the legislature has found ways to wean even line agencies of the executive branch away from the President through private rights of initiation, intervention, and participation. The APA, the FOIA, the Government in the Sunshine Act, and the extensive provisions for judicial review, all ensure that factions have many points of access and influence. They monitor intensively; insulation from factions’ influence has become an objection to the behavior of all public officials. Failing to wait for group monitoring and input is seen as a reason to set aside the agency’s decision. From a public choice perspective, it can be no surprise that those members of Congress with the most seniority vigorously resist presidential efforts to coordinate executive action through the Office of Management and Budget. Anything that increases the role of a broader national constituency in rule making, and that removes important aspects of decisions from “the sunshine” (that is, from monitoring by factions), reduces the support these legislators can garner.

None of this is to deny that we ought to be suspicious of what public officials do behind closed doors. Recall one of Madison’s most famous lines: “In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.” Mistrust of public officials leads many public spirited persons to prescribe closer monitoring. Yet it should by now be apparent that closer monitoring comes at high cost. By “auxiliary precautions” Madison had in mind the division of governmental powers rather than anything like the APA.

3. How should regulatory authority be divided between state and national governments? Once again much of the legal literature lavishes attention on formal questions about the legal entitlements of states under the Constitution. Other scholars inquire whether government “close to the people” is superior. From Madison’s perspective we should be asking: what are the conditions of competition among jurisdictions?

Competition depends on movement: consumers can turn to other vendors, producers can turn to new sources of supply or build new plants in different places. Inputs into production move, finished goods move, capital and labor move. The
role of private ownership in this process is widely understood. Less recognized, but no less vital, is the ability of laws themselves to move—or, what is the same thing, of money, goods, and people to move to the laws. A corporation dissatisfied with one state's laws can reincorporate in another, effectively choosing the rules of law that govern its operations. Under the McCarran-Ferguson Act, insurance companies can move to favorable laws, and persons who want insurance may shop for the combination of price and regulatory benefits they prefer. When governments become sufficiently plentiful, and when the scope of laws matches the domain of their costs and benefits (that is, when costs and benefits are all felt within the jurisdiction enacting the laws), competitive forces should be as effective with governments as they are with private markets.

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ranted there are not enough governmental units, the populations of jurisdictions are not sufficiently homogenous, and externalities are common, so the competitive ideal cannot be achieved. A market economy, too, does not look like Adam Smith's atomistic competition. The question is not whether we can achieve perfect competition but how to use the power of competition to deal with the costs of monopoly in government, just as markets in goods deal with the costs of private monopoly. The ratio of rhetoric to data is high when lawyers and professors and legislators talk about law. Instead of relying on a rhetorical equilibrium, we can employ the forces of competition.

If the level of government should be matched to the consequences of legal choices—large enough to prevent significant effects from escaping to impose costs on outsiders, and small enough to keep rules under competitive pressure from within or without—then we should be searching for trans-border consequences. Not just any consequences; there are always some, but using small effects to justify national regulation enhances the power of interest groups (by stifling jurisdictional competition) without affording a prospect of significant benefits.

4. Public choice holds other implications for our understanding of the laws—not only how to interpret them, but also of the institutions that do the interpretation. I mention only one: that when faction dominates the creation of laws, judges cannot interpret laws to serve the public interest. Shocking? Certainly to the Harvard legal process tradition exemplified by the work of Henry Hart and Albert Sachs. When Madison's institutions fail to thwart interest groups, and when civil virtue fails to carry the day, statutes reflect the outcome of a bargaining process among factions (and their representatives). They are compromises, and compromises lack "spirit."

If judges cannot serve the public interest by finding and implementing a legislative intent, what is appropriate? Beady eyed readings designed to pull the teeth from political deals? Readings designed to fortify any public-interest elements in the legislative packages? A public interest counterweight in which canons of construction add a little to the lot of the less fortunate members of society?—but only a little, not only because judges lack the mandate to follow their own preferences but also because if they add a lot Congress will notice and start subtracting to counteract the judicial thumb on the scale. Each poses substantial questions for implementation and legitimacy. But these are the questions we must today be asking, questions lurking since 1787 and thrust into prominence by the insistent logic of public choice as the Constitution's own mechanisms of faction control continue to lose their effectiveness.

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"Hey, the Constitution isn't engraved in stone."
On Saturday, September 15, 1787, as the Constitutional Convention in Philadelphia was bringing its labors to a close after four grueling months, several disgruntled delegates called for abandoning the project and beginning anew with a second convention. Young Charles Pinckney of South Carolina objected: “Conventions,” he said, “are serious things, and ought not to be repeated.” Pickney prevailed, a majority of the Convention approved the Constitution two days later, and we have not had another convention since. Our Constitution is the second oldest surviving written constitution in the world (the oldest is the 1780 Massachusetts Constitution, which has been amended and “rearranged” but not replaced). During the same period of time, the states have gone through well over a hundred constitutions—eleven of them in Louisiana alone. Other countries have similarly written and rewritten countless constitutions. What accounts for the extraordinary longevity of the United States Constitution?

One answer is that we are merely deceiving ourselves when we applaud the Constitution’s longevity. After all, as one scholar flippantly remarked during the bicentennial celebrations of 1987, our Constitution may be two hundred years old, but it was in the shop for four of those years. It is possible to argue that we do not have the same Constitution that we had in 1787: the original Constitution was an elitist, anti-democratic document that gave little power to the federal government and virtually none to most of the population. Both the text of the Constitution and its interpretation have undergone so much change that those who wrote it might very well find it unrecognizable today.

However, that very elasticity has contributed significantly to the Constitution’s survival. As the framers themselves recognized, any constitution will necessarily be imperfect. Article V, which provides two different routes for amendment (only one of which has ever been used), offers one way of responding to that imperfection. Amending the Constitution, however, is designed to be strong medicine: the framers were wary of too-frequent change, and thus provided for supermajorities in the House, the Senate, and among the states as a necessity for any ratification. The process has only been used twenty-seven times (and two of the amendments cancel each other out). While it is a necessary safety valve, it should therefore be used carefully. This essay is a brief historical survey of how the amendment mechanism has worked in practice, and of the major controversies surrounding the process.

The process of amending the Constitution has now become so regularized that it is almost routine, but it was not always so. When James Madison first proposed the group of amendments that would become the Bill of Rights, he had great difficulty even persuading his colleagues in the House to consider them. They wasted the better part of a day debating whether it was appropriate to discuss amendments at that time, prompting one Representative to note that “[i]f no objection had been made to [Madison’s] motion, the whole business might have been finished before this.” Ultimately, the House allowed Madison to present his amendments, largely in the hope that hearing the amendments and turning them over to a committee “would tend to tranquilize the public mind.” Some Representatives objected to this transparent public relations move. Elbridge Gerry of Massachusetts suggested that “referring the business to a special committee will be attempting to amuse [constituents] with trifles.” Nevertheless, procedural maneuvers managed to delay consideration of Madison’s proposals for over three months.

Even once the House turned to the matter, they could not immediately debate the substance of the proposed amendments. First they had to decide an issue we take for granted: whether the amendments should be appended to the end of the existing Constitution or inserted into the body of the text. The House first voted to interlineate the changes

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1 Some scholars recognize only twenty-six amendments: I will deal with that question later, and assume until then that there are twenty-seven.
Since 1789, approximately ten thousand resolutions have been introduced in Congress proposing amendments.

By the time the placement question was settled and the Bill of Rights had made its way through the gauntlet described in Article V, two important precedents were set: amendments would go at the end of the document, and the amendment process would be served for matters of fundamental importance. Madison, in proposing amendments, had pared down hundreds of suggested revisions received from the various states. Congress and then the states had winnowed the proposals even further. From suggestions including protecting the right to “fish in all navigable waters” and prohibiting the granting of monopoly powers, to term limits and detailed provisions regarding exactly how the House of Representatives should grow in the event of increases in population, the various participants in the amendment process—Madison, the House and Senate, and the states—culled ten succinct amendments touching on the most fundamental rights of citizens and the best way of protecting them.

Both precedents have stood more or less unmarred. Since 1789, approximately ten thousand resolutions have been introduced in Congress proposing amendments, but only thirty-three have been sent to the states for ratification. Of those, only twenty-seven have been successfully ratified. After the Bill of Rights, which was almost an extension of the original document, all but a handful of amendments have either corrected a serious defect in the original structure or served to make the Constitution more democratic. Two that failed to do either canceled each other out, and demonstrated the unsoundness of tinkering with the Constitution for less weighty purposes: the Eighteenth Amendment established Prohibition and the Twenty-First Amendment repealed the Eighteenth.

Moreover, despite numerous calls for amendments to reverse Supreme Court rulings—Roe v. Wade and Engel v. Vitale (the school prayer case) are two of the most popular targets—only four have done so: the Eleventh Amendment reversed Chisholm v. Georgia and protected the states from suit in federal court; the Fourteenth Amendment reversed Dred Scott v. Sanford and declared newly freed blacks to be citizens; the Sixteenth Amendment reversed Pollock v. Farmers' Loan and Trust Company and permitted Congress to establish the income tax; and the Twenty-Sixth Amendment reversed Oregon v. Mitchell and gave eighteen-year-olds the vote. Most of the amendments proposed by Congress have dealt with more enduring issues than a single Supreme Court decision. Proposals to give women the vote, for example, surfaced as early as 1866, although no amendment was actually proposed to the states until 1919. Discussions of the appropriateness of term limits on the President, ultimately codified in the Twenty-Second Amendment proposed in 1947, go back to the 1787 Convention.

Congress has indeed shown commendable wisdom in rejecting some of the amendments introduced. Some have been dangerously divisive and needlessly exclusionary, such as the perennial suggestions that the Constitution explicitly recognize the authority of Jesus Christ or make English the official language. Others have merely been trivial or absurd, such as the nineteenth century proposal to change the name of the country to “The United States of the Earth” and to require the House and Senate to “vote by electricity.” A few have been truly evil, such as the proposals in the early part of this century to make miscegenation unconstitutional, or to deny citizenship to Asian children born in the United States.

Even Congress is not infallible, of course. While the Congress has filtered out many amendments, six have made it through that hurdle only to fail to obtain the ratification of three-quarters of the states. Several are quaint legacies of past eras that have been mooted or otherwise lost their urgency: The Bill of Rights originally contained a provision specifying the size of the House of Representatives at various population levels; in 1810, Congress proposed strengthening the ban on titles of nobility; and in 1924, it proposed giving Congress the power to prohibit child labor. None of these issues survived long beyond their initial impe-
tus, and the states never ratified them. (At least not yet: None contained any express time limits for ratification, and, like the 1789 measure which may or may not have become the Twenty-Seventh Amendment, they may still be alive and amenable to ratification, although only the Titles of Nobility Amendment would have any actual effect today.) The two most recent amendments proposed by Congress simply failed to garner the requisite number of state ratifications. In 1972, Congress proposed the Equal Rights Amendment and in 1978 it proposed the D.C. Statehood Amendment. Neither succeeded in the time allotted.

Then there is the almost-Thirteenth Amendment, which proves the worth of the state ratification requirement in the face of Congressional moral cowardice. In March of 1861, in a last-ditch effort to avoid a Civil War, Congress sent to the states the Corwin Amendment, which provided: "No amendment shall be made to the Constitution which will authorize or give to Congress the power to abolish or interfere, within any State, with the domestic institutions thereof, including that of persons held to labor or service by the laws of said State." For those unfamiliar with standard Constitutional doublespeak on this issue, the proposed amendment prohibited any future amendment from outlawing slavery. Abraham Lincoln endorsed the Corwin Amendment in his first inaugural address, but only three states ratified it before events intervened. It was ultimately one of the least lamented casualties of the Civil War.

There is, finally, the Amendment which confounds the counting process. In 1789, Congress originally proposed twelve amendments to the states. The states ratified the last ten, which became the Bill of Rights. The first was the proposal regarding the size of the House, which failed to garner sufficient ratifications. The second was a provision prohibiting any salary change for members of Congress from taking effect until after an intervening election. The obvious purpose was to prevent members of Congress from raising their own pay, although the language applies to pay cuts as well. Only six states ratified the proposal during the eighteenth century. In 1873, almost a century after the amendment was proposed, Ohio ratified it. Late ratifications, incidentally, are not confined to obscure amendments: Massachusetts, Georgia, and Connecticut ratified the Bill of Rights in 1939 (no, that's not a typographical error).

In 1982, A University of Texas college student wrote a term paper arguing that the pay raise amendment—still languishing with only seven ratifications—could, and should, still be ratified (he got a C on the paper). Political factors combined with his personal letter-writing campaign on behalf of the amendment, and in 1992 Michigan became the thirty-eighth state to ratify the two-hundred-and-two-year-old proposed amendment. Is it now the Twenty-Seventh Amendment to the Constitution?

Scholars are still debating whether the late ratifications were effective. Some contend that there are inherent time limits to proposed amendments, or that the ratifications must be sufficiently close in time to demonstrate a "contemporary consensus" on the wisdom of the amendment. They point to the horrific possibility that other amendments without time limits might be similarly resurrected, including the Corwin Amendment. Others suggest that as long as Congress does not specify any time within which the amendment must be ratified, the only requirement is that three-quarters of the states ratify it. For these scholars, the Corwin Amendment is a red herring, long since superseded by the Thirteenth Amendment. Neither the Child Labor Amendment nor the House Size Amendment would have any effect today, and no one appears to care whether the Titles of Nobility Amendment might suddenly come into vogue. That indifference may be misplaced: at least one reading of the amendment would strip Nobel Prize winners of American citizenship.

Several authors of constitutional law casebooks, attempting to remain agnostic on the subject of the Twenty-Seventh Amendment, include it in the Appendix along with the rest of the Constitution, but mark it with an asterisk to denote its suspicious provenance. (Shades of Roger Maris,)* The final practical resolution of this debate came from an unlikely source: By Congressional statute, the National Archivist is responsible for certifying that a proposed amendment has been ratified, and he did so almost immediately. Congress, which had been murmuring about holding hearings on the matter, quietly acquiesced. Only in the law reviews is it still a live issue.

A related question is whether a state can rescind its ratification before three-quarters of the states have ratified. As a matter of consistency, one might think that "contemporary consensus" advocates would permit rescission (since all the states have to agree to the amendment at roughly the same time), and formalists would count any ratification whether or not it had been rescinded (since the Constitution merely specifies the number of required ratifications, and not whether they need be surviving or contemporaneous). Most scholars on both sides apparently have large minds, however, since the leading "contemporary consensus" advocates deny the effectiveness of rescissions and the leading formalist would permit them. This issue, unlike the question of how long a proposal remains active in the absence of Congressional time limits, may actually come up again in the context of the flurry of amendments Congress is now threatening to propose. But neither issue arises unless a proposed amendment is unusually subject to the winds of change, and thus these questions serve as a further reminder that Congress would do well to avoid hasty amendments catering to what Madison disparagingly called the people's "transient impressions."

There are two other interesting unresolved questions about the amending process. The first is whether it would be possible for a proposed amendment to be unconstitutional. Are there any limits to what could count as a valid amendment?

* [Ed. note. For the uninitiated: In 1961, when Roger Maris beat Babe Ruth's record of home runs within a single season, statisticians placed an asterisk beside Maris' name in the record books. In effect, acknowledging the effort yet declaring Maris' claim to the top honor was dubious since he enjoyed a longer season than Ruth.]
Two different theories support an affirmative answer. Some argue that the Constitution itself entrenches certain provisions and renders them temporarily or permanently immune from amendment. Article V itself explicitly prohibits amendments that deprive any state of its equal representation in the Senate, and temporarily (until 1808) prohibited any amendments regulating the slave trade. The Corwin Amendment, had it been ratified, would have precluded further amendments on slavery. One reading of the combination of the First Amendment and the Fourteenth Amendment prohibits Congress or the states, acting separately or in combination, from abridging freedom of speech, and thus effectively entrenches the First Amendment, making unconstitutional such things as an amendment permitting states to ban flag burning. Some scholars, however, question whether any constitutional entrenchment provision can be legally binding on subsequent generations. The easy way out of this dilemma, of course, is first to amend the entrenching provision, stripping the target provision of its protection. (Only a self-referential entrenchment or an infinite number of sequential entrenchments could eliminate this possibility.) Nevertheless, the notion of unconstitutional amendments remains an intriguing possibility.

Thus, some other constitutional thinkers through the years have proposed a different theory of unconstitutional amendments: that certain changes would be so fundamentally inconsistent with either the document itself or the natural rights of mankind that they would be unconstitutional. This argument has been made against such diverse proposals—real and hypothetical—as the abolition of slavery, the extension of the right to vote to women, Prohibition, and endorsement of race discrimination, and limits of freedom of speech. One recent article expands on this notion by suggesting that two apparently contradictory premises underlie our constitutional scheme: popular sovereignty and fidelity to a higher law. In order to accommodate both principles, any constitutional amendment would have to leave the constitutional order before and afterward with sufficient resemblance to each other that "We the People" know that it is indeed we who have imposed this higher law on ourselves. Radically transformative amendments, in other words, would be inconsistent with the American scheme of government and thus unconstitutional.

Finally, there is the question of whether Article V provides the exclusive method of amending the Constitution. Like the question of unconstitutional amendments, this raises an issue of whether Article V (or any provision of the Constitution) can preclude a united and determined people from changing their governing document. The Constitution itself, after all, was extralegal, born in contravention to the then-governing constitution: The Articles of Confederation required consent of all thirteen states for any amendments. Can constitutional change occur outside of the procedures specified by Article V? Some scholars question the validity of the question, since constitutional change, they argue, does occur in the absence of formal amendments—and formal amendments don't necessarily work a constitutional change. Thus one writer has subtitled his recent article on the amendment process: "How Many Times Has The United States Constitution Been Amended? (a) < 26; (b) 26; (c) > 26; (d) all of the above." (This was before the controversy over the Twenty-Seventh Amendment.) Other scholars have argued for the validity of various extraconstitutional mechanisms, from a national referendum to a systematic and thoughtful exercise of sovereign power reflected in the actions of the various branches of government.

What lessons can we draw from this admittedly incomplete romp through the history of the amendment process? One thing that most participants—both political and scholarly—seem to agree on is that the process itself should not be taken lightly. Mistakes at this level have serious and sometimes unforeseeable consequences. Luckily, the various filters tend to screen out most of the mistakes. Nevertheless, as I'm sure Charles Pinckney would have agreed, amendments are serious things, and ought not to be [too often] repeated.

Suzanna Sherry '79 is the Earl R. Larson Professor of Civil Rights and Civil Liberties Law, University of Minnesota.

3 In his view, the only clearly wrong answer is (b).

FURTHER READING:

Bruce Ackerman, We The People (Belknap, 1991)
Richard B. Bernstein, Amending America: If We Love the Constitution So Much, Why Do We Keep Trying to Change It? (Times Books, 1993)
Sanford Levinson, "Accounting for Constitutional Change (Or, How Many Times Has The United States Constitution Been Amended? (a) <26; (b) 26; (c) >26; (d) all of the above)," 8 Const. Commentary 409 (1991)
Sanford Levinson, Responding to Imperfection (Princeton, 1995)
Walter J. Blum '41, Edward H. Levi Distinguished Service Professor Emeritus, died at his home in Hyde Park on December 18, 1994. As a member of the faculty for over forty years, Mr. Blum established himself not only as one of the nation's leading educators in the fields of taxation, risk distribution, bankruptcy, and corporate reorganization, but also served as a driving force in the life and growth of the Law School and the University of Chicago.

Born on August 17, 1918, Mr. Blum spent most of his life in close association with the University. He was already an alumnus of the University's Laboratory Schools and the College when he entered the Law School in the late 1930s. By the time of his graduation in 1941—ranking first in his class and having served as editor-in-chief of the Law Review—then-Dean Wilbur Katz was compelled to write: "He is one of the ablest students whom I have ever had in my entire teaching experience."

After serving in the General Counsel's Office of the Office of Price Administration, and in the military, Mr. Blum joined the Law School faculty as an assistant professor of law in 1946. Professor Blum quickly established himself as a vigorous teacher and author. One of his books, The Uneasy Case for Progressive Taxation (1953), co-authored with Harry Kalven Jr., is considered a classic in the field. In 1953, he was promoted to full professor, later named the Wilson-Dickinson Professor of Law (1975-85), and then the Edward H. Levi Distinguished Service Professor of Law (1985-88). He was named the Edward H. Levi Distinguished Service Professor Emeritus upon retiring in 1988.

Mr. Blum remained a leader in the tax field throughout his life. He advised the American Law Institute in its Federal Income Tax Project, served as legal counsel to the Bulletin of Atomic Scientists, and helped design and guide the Law School-sponsored Federal Tax Conference, one of the nation's premier conferences on that subject and now in its forty-seventh year. He frequently served as a consultant to the federal government, advising the Treasury Department and the Internal Revenue Service.

Mr. Blum chaired many committees for both the University and the Law School. He oversaw the construction of the Law School in the 1950s and its expansion in the 1980s. Mr. Blum also was a driving force behind the Mandel Legal Aid Clinic for many years. He served as faculty spokesman for the University Senate and, in 1988, he chaired the University of Chicago Centennial Faculty Planning Committee. For these and countless other good deeds, Mr. Blum was awarded the University of Chicago Alumni Service Medal in 1991.
Appointments

Faculty

In March, Kenneth Dam '57, Max Pam Professor of American and Foreign Law, succeeded Geoffrey Miller as director of the Law School’s Law and Economics Program. Professor Dam first joined the faculty in 1960. He also served as assistant director of the Office of Management and Budget in 1971; and in 1973, he was executive director of the Council on Economic Policy. He returned to the University of Chicago Law School in 1974, where he served as provost of the University from 1980 to 1982. He served as deputy secretary of state from 1982 to 1985 and then as vice president for law and external relations with IBM from 1985 to 1992.

"Ken returns to head the Law and Economics Program after broad experience in government and the private sector with an exciting research agenda," Dean Baird said after the announcement of Professor Dam’s appointment. “Under his stewardship, the law and economics program will continue to flourish and help scholars, lawyers, and judges understand the law and our legal system.”

Elizabeth Garrett will join the faculty as an assistant professor. Ms. Garrett is currently a research associate professor of law at the University of Virginia. A 1988 graduate of Virginia, she clerked for Judge Stephen Williams, Court of Appeals for the D.C. Circuit, and Justice Thurgood Marshall, U.S. Supreme Court. Ms. Garrett’s research interests include legislation, taxation, arbitration, torts, banking, and civil procedure. In her work on tax policy, she has focused her attention on

Cass Sunstein, the Karl N. Llewellyn Professor of Jurisprudence, was named a Distinguished Service Professor in January. Professor Sunstein, an expert in administrative and constitutional law, has been a faculty member since 1981. He is co-director of the Center for the Study of Constitutionalism in Eastern Europe and holds a joint appointment in the political science department.

Birth: September 21, 1954; Salem, Massachusetts.
Clerkship: Justice Benjamin Kaplan of the Massachusetts Supreme Judicial Court and Justice Thurgood Marshall of the U.S. Supreme Court.
Previous appointments: Samuel Rubin Visiting Professor of Law at Columbia, visiting professor of law at Harvard, vice-chair of the ABA Committee on Separation of Powers and Governmental Organizations, chair of the Administrative Law Section of the Association of American Law Schools, and a member of the ABA Committee on the future of the FTC.
Research and Teaching interests: elements of the law, civil procedure, environmental law, constitutional law, welfare law, and administrative law.
Memberships: American Law Institute, American Academy of Arts and Sciences.
Married to: Lisa Ruddick (one child, Ellen).
Outside interests: squash, tennis, sports on TV, "Star Trek" in all its reincarnations.
proposals to replace federal income tax with a consumption tax.

Elena Kagan, who has served as an assistant professor of law since 1991, has been promoted to professor of law with tenure, effective July 1. Professor Kagan, a member of the Board of Governors of the Chicago Council of Lawyers, and of the Administrative Conference of the United States, served as special counsel to the Senate Judiciary Committee during the summer of 1993 for the confirmation hearings of Ruth Bader Ginsburg. Her primary teaching and research interests are constitutional law, labor law, and civil procedure.

Lawrence Lessig, who has served as an assistant professor of law since 1991, has been promoted to professor of law with tenure, effective July 1. Professor Lessig's interests are in jurisprudence and public law, and he teaches constitutional law and contracts.

Martha Nussbaum will join the faculty as a professor in a joint appointment with the Divinity School. Ms. Nussbaum has taught at Harvard and Oxford Universities, and is now University Professor and professor of philosophy, classics, and comparative literature at Brown University. Her publications include Aristotle's De Motu Animalium (1978), The Fragility of Goodness: Luck and Ethics in Greek Tragedy and Philosophy (1986), and Love's Knowledge: Practice in Hellenistic Ethics (1994).

Daniel Shaviro resigned his position at the Law School, effective June 30. A member of the faculty since 1987, Professor Shaviro has accepted an appointment as professor of law at New York University.

"The eight years I have spent here have been wonderful for me both personally and professionally," Shaviro said. "I will leave with feelings of great affection and gratitude."

Stephen Schulhofer, the Frank and Bernice J. Greenberg Professor of Law and director of the Center for Studies in Criminal Justice, was named the Julius Kreeger Professor of Law and Criminology. Professor Schulhofer has been a member of the Law School faculty since 1986. He is an expert in criminal justice and is the co-author of one of the leading casebooks in criminal law, Criminal Law and Its Process (1989).

**Visiting Faculty**

Scott Brewer, an assistant professor at Harvard, will serve as a visiting professor at the Law School to teach a section of elements of the law as well as a seminar. At Harvard, Mr. Brewer teaches contracts, jurisprudence, and philosophy of legal language.

Ruth E. Chang was appointed a visiting assistant professor for the 1995-96 academic year. Ms. Chang received her J.D. cum laude from the Harvard Law School in 1988 and has since pursued graduate studies at Oxford, where she expects to receive a Ph.D. in 1995. She is currently a visiting assistant professor in the Department of Philosophy at UCLA. Ms. Chang will teach a course in jurisprudence.

David Cohen was appointed a visiting professor of law for the autumn quarter. Mr. Cohen is a professor in the Department of Rhetoric of the University of California, Berkeley. He is the author of several books, including the Athenian Law of Theft and Law, Society and Sexuality: The Enforcement of Morals at Classical Athens. Mr. Cohen, a lawyer as well as a historian, previously served as a visiting professor at the Law School during the 1990-91 and 1992-93 academic years. During his visit, Mr. Cohen will teach courses on the law of war and ancient Greek law.

Lawrence Friedman '51 will return in the spring of 1996 to serve as a visiting professor of law. Mr. Friedman is the Marion Rice Kirkwood Professor of Law at Stanford and one of the nation's leading experts on American legal history. He is the author of over a dozen books, including The Roots of Justice (1981) and Reason and Experience in Contemporary Legal Thought (1986). Mr. Friedman previously served as a visiting professor during the 1991-92 and 1993-94 academic years. Mr. Friedman will teach a course on the history of American law.

Douglas Ginsburg '73 will serve as a visiting professor of law for the spring quarter. Judge Ginsburg was appointed to the United States Court of Appeals for the District of Columbia Circuit in 1986. Previously, he served as a professor of law at Harvard, deputy assistant attorney general for regulatory affairs in the anti-trust division of the Department of Justice, and administrator for information and regulatory affairs in the Executive Office of the President. Judge Ginsburg previously served as a visiting professor during the 1993-94 academic year. Judge Ginsburg will teach a seminar on legal thought.

Bernhard Grosfeld was appointed as the
Max Rheinstein Visiting Professor of Law for the autumn quarter. Professor Großfeld is a member of the law faculty at the University of Münster in Germany, and director of two institutes there—the Institute of Economic Law and the Institute for the Law of Cooperative Associations. In addition to his extensive German experience, he has served as visiting professor at the University of Michigan, at Southern Methodist, and at the University of Texas. He has been a visiting fellow at Cambridge and a visiting scholar at Duke University. He has published extensively, both in German and English. Mr. Großfeld will teach a course in comparative law.

Wiktor Osiatynski, who was at the Law School last spring, will again serve as visiting professor of law for the autumn quarter. 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 will teach a course on international human rights and a seminar on international environmental law.

Joseph Weiler, a professor at the Harvard Law School, will return to the Law School to serve as visiting professor during the spring quarter. Mr. Weiler is one of the nation’s leading scholars in the fields of comparative and international law. He is the author of more than forty scholarly articles and several books, including Europe’s Middle East Dilemma (1987) and Israel and the Creation of a Palestinian State (1985). He is a member of the Committee of Jurists of European Parliament, serves as editor of the European Journal of International Law, and is on the Board of Editors of the Bulletin of European Political Cooperation. Mr. Weiler will teach a course on European economic community law.

David Wilkins, a professor at Harvard Law School, will serve as visiting professor during the autumn quarter. Mr. Wilkins received his J.D. from Harvard in 1980. He clerked for Judge Wilfred Feinberg in 1980-81 and for Justice Thurgood Marshall in 1981-82. From 1986-92 he was an associate in the firm of Nussbaum, Owen & Webster in Washington, D.C. Since 1991, he has been director of Harvard’s Program on the Legal Profession. Mr. Wilkins will teach a course on the legal profession and a seminar dealing with issues of legal ethics.

Andras Sajo will serve as visiting professor for the winter quarter. Mr. Sajo, who is a Fellow of the Hungarian Academy of Sciences, has served as a professor of comparative and international business law at the School of Economics in Budapest, Senior Fellow of the Institute for Legal and Political Sciences, and member of the committee charged with drafting the new Hungarian Constitution. He is currently dean of the Law Program of Central European University and an affiliate of the University of Chicago Law School’s Center for the Study of Constitutionalism in Eastern Europe. He will teach a course on international human rights and a seminar on international environmental law.

In addition to working with Richard Badger ’68, the dean of students, in recruiting and admissions, Ms. Cosgrove works with students on the variety of issues affecting their day to day experience at the Law School. “Everything from curriculum issues and career searches to diversity issues and improving communication. The fact that I am a recent graduate really helps. The students know that I understand the experience.”

“It has been a wonderful homecoming,” Ms. Cosgrove noted. “I enrolled here as a student because of the school’s outstanding reputation. I returned because of the unique combination of reputation and atmosphere. This is a very special place.”

Estate Plan Gift of Eunice and Gerald Ratner

In celebration of the sixtieth reunion of Mr. Ratner’s College Class of 1935, Eunice and Gerald Ratner ’37 have provided for the University and the Law School with a gift as part of their estate plan. The gift will provide support for the Law School and the University in an amount currently estimated at $400,000.

Said Dean Douglas G. Baird, “From playing baseball for the University of Chicago as an undergraduate to his service to the Law School, Gerry Ratner has shown leadership at every turn. This gift from Gerry and Eunice is further evidence of their dedication to the Law School and the University. We are very much in their debt.”

Mr. and Mrs. Ratner have named the University and the Law School in a charitable remainder unitrust they have established. During their lifetimes, Gerry and Eunice receive annual payments from the trust. Upon the death of the surviving spouse, the trust assets will go to the University of Chicago and the Law School.

Mr. Ratner has practiced law in Chicago since his graduation from the Law School in 1937 with the exception of his service with the U.S. Army during World War II in which he attained the
rank of captain. After the war, he and his classmate, Benjamin Z. Gould (A.B. '35, JD '37), formed the law firm that became Gould & Ratner. He has served the Law School and the University in many capacities over the years, and is currently a member of the Law School Visiting Committee.

**Gift of George J. Phocas**

George J. Phocas '53 has made a gift of $250,000 to create an endowed fund at the Law School to support faculty research in the area of private international law.

Following service in the U.S. Army, Mr. Phocas graduated from the College of the University of Chicago in 1950 and from the Law School in 1953. His career has focused on international law both as a practicing attorney with Sullivan & Cromwell and Casey Lane & Mitrendorff, and as an executive with the Standard Oil Company of New Jersey (Exxon) and Occidental Petroleum Company. In addition, Phocas served as an advisor to the U.S. delegation to the United Nations Economic Commission for Asia and the Far East. Currently, Mr. Phocas is engaged in private international practice.

In accepting the gift, Dean Douglas G. Baird praised Mr. Phocas's generosity and vision. "George's contribution is reflective of both his distinguished career in international law and the importance of scholarly research in this critical field," said Dean Baird. "George has long been a close friend of the Law School and I am truly grateful for his outstanding gift."

Mr. Phocas is a current member of the Law School Visiting Committee and was also a member from 1988 to 1991.

**William B. Elson Pledges Bequest**

William B. Elson '35, a longtime corporate attorney in Chicago, has included the Law School and the University in his estate plan with a gift which will provide unrestricted support in an amount currently estimated at $186,000. Mr. Elson and his wife, Marjorie, have established a charitable remainder unitrust and are the beneficiaries of the income from the trust during their lifetimes. Upon the death of the surviving spouse, the remainder reverts to its designated charitable purposes, including the University of Chicago and its Law School. Born in St. Louis, Mr. Elson attended Hyde Park High School and graduated from the College of the University of Chicago with a Ph.B. degree in 1933. Following his graduation from the Law School, he joined the Chicago law firm of Albert H. & Henry Veeder which served as the general counsel of Swift & Company. He later became assistant general counsel of Swift and its successor company, Esmark. Mr. Elson retired from Esmark in 1979.

Dean Baird called the gift "a wonderful and generous expression of a long-term commitment to the University and the Law School. This gift will help to ensure the continued excellence of the School and we are deeply grateful to Bill and Marjorie."

**Mandel Clinic Update**

Nearly forty law students cut short their summer break to attend the Mandel Legal Aid Clinic's second annual Intensive Trial Practice Workshop at the Law School. Beginning September 17, students returned to campus for intense training sessions that extended over nine days for seven hours each day. Through it all, students were exposed to all areas of trial preparation—from examining the theory of a case to performing opening and closing statements. The workshop culminated in mock jury trials at the Daley Center on October 1, 1994. Sitting judges presided and students from Hyde Park Academy and the North Shore Country Day School served as jurors for the mock trials. This year, the case tried was a civil rights case involving alleged police brutality.

The Mandel Legal Aid Clinic began teaching the Workshop in 1993. Developed by Clinic Director, Randolph N. Stone and Clinical Professor of Law Randall D. Schmidt '79, the Workshop is taught by the Mandel Legal Aid Clinic faculty, and by experienced trial attorneys and judges from the Chicago area. The litigators have expertise in trial advocacy and work in areas ranging from corporate litigation to criminal defense and prosecution. The judges involved in the workshop included state and federal trial and appellate judges.

The 1994 Workshop proved to be a great success for all of those involved. "The entire two-weeks were great," said Kathryn Kurtz, a third-year student and workshop participant. "The main advantage of the workshop is the feedback process, which is immediate. The advice I received from the participating judges and attorneys was well-
balanced and invaluable. I walked away at the end aware of my presentation style and more confident in my abilities."

In addition to the students, Law School graduates Stephen Anderson '80, Marc O. Been '75, Robert Cohen '86, Stephen Fedo '81, Jeanne Nowaczewski '84, and Jacqueline Ross '89 participated as instructors.

CRIMINAL JUSTICE CONFERENCE

On October 28-29, Professor Stephen Schulhofer, the Frank & Bernice J. Greenberg Professor of Law and the director of the Center for Studies in Criminal Justice at the Law School, hosted a conference on "Crime and Justice: Soundings for the 21st Century." The Conference, sponsored by the Law School's Center for Studies in Criminal Justice, was held to honor the career and scholarly contributions of Norval Morris, the Julius Kreeger Professor of Law and Criminology, Emeritus. It brought together leading criminal justice scholars from around the country who had been colleagues or former pupils of Professor Morris.

After opening remarks delivered by Francis A. Allen, the Huber C. Hurst Eminent Scholar & Professor of Law at the University of Florida, the first session began. Moderated by Professor Schulhofer, the opening session dealt with prisons in society and included a paper by James B. Jacobs '73, professor of law and director of the Center for Research in Crime & Justice at the New York University School of Law entitled "The 20th Century Prison." Katherine M. Hawk, the director of the Federal Bureau of Prisons, carried the theme a step further with her paper "The 21st Century Prison."

The second session, entitled "Crime and Mental Illness," was moderated by Albert W. Alschuler, the Wilson-Dickinson Professor of Law. Among those participating in this session was Mark J. Heyrman '77, clinical professor of law at the Law School. Professor Heyrman's paper addressed the issue of the mentally ill in the criminal justice system.

Friday evening the participants gathered at the Quadrangle Club. Here Franklin E. Zimring '67, professor of law and director of the Earl Warren Legal Institute at the University of California at Berkeley School of Law acted as the evening's moderator. The guest speaker was Jack Fuller, president and CEO of the Chicago Tribune.


At the conclusion of the conference, Professor Schulhofer expressed his pleasure at the great interest the conference generated. "These conference sessions brought together the nation's leading experts on the real-world issues that are central to the fairness and effectiveness of our criminal justice system. Not coincidentally, the participants are all current or former students and colleagues of Norval's. This was a fitting way not only

Norval Morris and the Newsome Case

It took fifteen years, but James Newsome was finally released from prison January 4 after an incarceration for a crime he did not commit. Now that he has his life back, there is only one thing he wants to do with it. He wants to be a lawyer. In his efforts to prove his innocence, Newsome spent years in the law libraries at Stateville Correction Center and Joliet Correctional Center, the two Illinois prisons at which he spent the last quarter of his life. He also spent plenty of time with Norval Morris, the Law School professor and eminent criminologist, as well as several Law School students who believed in Newsome.

Newsome's personal nightmare began on October 30, 1979, when three witnesses stated Newsome was the man they had witnessed rob and kill a Chicago greeter. Despite his pleas of innocence, Newsome was convicted and sent to prison. There he might have stayed had not his own efforts for release impressed Professor Morris. With his help, Newsome was able to get authorities to use new computer techniques in analyzing key evidence. With these new tools, police were able to find fingerprints on grocery items that witnesses said the killer had handled. These fingerprints match those of another convicted killer. This was enough to set Newsome free.

Professor Morris was on hand at the hearing in which Newsome learned of his new freedom. It was there that Newsome told Morris there was one place he wanted to visit once he was out: The University of Chicago Law School. Newsome was released on a Wednesday and on Thursday he visited the Law School library. Noting the difference between the Law Library and the Stateville library, Newsome said, "It's a lot quieter." Newsome hopes to find summer employment as a legal assistant, before beginning his pursuit of law degree.
to pay tribute to Norval’s enormous contributions but also to help carry forward this vitally important work.”

**The 1994 Federal Tax Conference**

The Law School’s forty-seventh annual Federal Tax Conference was held on October 31-November 2, 1994. The conference examined issues including corporate and partnership tax doctrines, financial derivatives, and recent U.S. tax legislation.

Margaret Richardson, the commissioner of the Internal Revenue Service, was the opening speaker for the conference. Focusing on current issues at the I.R.S., Commissioner Richardson said increasing compliance is the goal of streamlining efforts at the I.R.S. “A compliance rate of 83 percent is simply not acceptable,” said Richardson, referring to 1994 tax year figures, with each percentage point of the compliance rate representing $7 to $10 billion in annual revenue. About 2.5 million businesses and 7.5 million individuals are not filing returns, she said. Commissioner Richardson also noted that both I.R.S. and Treasury are formulating simple, flexible regulations for tax planning and reporting, as well as combining traditional enforcement efforts and education under the Service’s Compliance 2000 strategy.

The speakers and panelists for the three-day event included several graduates as well as faculty members of the University of Chicago. Stephen S. Bowen ’72, a partner at Latham & Watkins, presented a talk entitled “The ‘End Result’ Test Revisited.” Sheldon L. Banoff ’74 of Katten Muchin & Zavis spoke on “Ownership and Transfer of Partial Partnership Interests,” and George B. Javars ’64, a partner at Kirkland & Ellis, spoke on “Tax Problems in Dealing with Joint Ventures of Operating Businesses.” The program also included “Tax Consequences of Business and Investment-Driven Uses of Derivatives” delivered by Richard M. Lipton ’77, a partner at Sonnenschein Nath & Rosenthal.

Merton H. Miller, the Robert R. McCormick Distinguished Service Professor Emeritus at the Graduate School of Business and Nobel Prize winner in economics, discussed “Inside Financial Derivatives.” Professor Miller was introduced by Walter J. Blum ’41, the Law School’s Edward H. Levi Distinguished Service Professor Emeritus. Professor Blum, one of the founders of the Tax Conference, served as a member of the conference’s planning committee and was in attendance for the forty-seventh consecutive year.

In addition to the lectures and panels, the speakers submitted papers that were subsequently published in the December issue of Taxes. This issue was distributed to graduates practicing tax law, as well as conference attendees. A limited number of copies are still available. Those interested in receiving a copy can contact Judith Cottle at 312/702-9624.

**Professor Schulhofer Awarded Fred Berger Prize**


Papers published in 1992 and 1993 were eligible for the prize, which was presented to Professor Schulhofer on April 1 at the APA’s Pacific Division meeting in San Francisco.
The Visiting Committee convened its annual meeting at the Law School on November 3. The theme of this year’s meeting was the future of legal education. After the traditional continental breakfast and words of welcome from Dean Douglas Baird, Randolph Stone, the director of the Mandel Legal Aid Clinic provided the committee members with an overview of clinical legal education in the 1990s.

At the first afternoon session, Assistant Dean Richard Badger ’68, and Professors Mary Becker ’80, David Strauss, and Alan Sykes discussed admission practices and policy. The day’s final session dealt with the future of need-based financial aid, during which Richard Badger and Dean Baird made presentations.

Friday afternoon, the Weymouth-Kirkland Courtroom filled to capacity as Visiting Committee Members, faculty, and students gathered to listen to Kenneth Dam ’57, the Max Pam Professor of American and Foreign Law, deliver the 1994 Wilbur C. Katz lecture. Established in 1976 in honor of the Wilbur G. Katz, dean of the Law School from 1940 to 1950, the lecture is delivered annually by a member of the Law School faculty. In this year’s lecture, entitled “Law, Diplomacy and Force,” Professor Dam discussed the recent U.S.-North Korean agreement and analyzed its implications. His talk was subsequently published as the thirty-third Occasional Paper published by the Law School.

The following day, committee members participated in a panel discussion with members of the faculty to discuss changes in the legal profession and their impact on the Law School. After a break, members reconvened to an executive session with Dean Baird. At lunch, held in the Burton Judson Lounge, members were addressed by Assistant Professor of Law Tracey Meares ’91, who offered her observations as the Law School’s newest faculty member.

A complete list of the 1994-95 Visiting Committee can be found on the inside back cover of this magazine.
LEGAL FORUM SYMPOSIUM

The University of Chicago Legal Forum held its tenth annual symposium during the weekend of November 4-5. Speakers from around the country gathered to address the topic “Voting Rights and Elections.” Lani Guinier delivered the keynote address Friday afternoon. Professor Guinier, professor of law at the University of Pennsylvania Law School, is best known for President Clinton’s withdrawal of her 1993 nomination to serve as the assistant attorney general, Civil Rights Division, stemming from her controversial legal and racial theories. In her talk before a capacity audience in the Weymouth Kirkland Auditorium, Professor Guinier spoke on several of those legal theories, using examples dealing with racial minorities, saying, “We can’t talk about democracy in a multi-cultural society without talking about race...I am not saying that race should matter always or that race should always matter in the same way, but I am saying that race does matter.”

Professor Guinier acknowledged that the Voting Rights Act worked toward ending old strangler holds of power, but recommended cumulative voting as another remedy. “Democracy is not just about participating in the symbolic ritual casting of a ballot,” she said. “Democracy is about joining with other people with whom you have shared interest and trying to be represented in that public discourse, that public space, that public conversation that we call democracy.”

The symposium continued on Saturday with a series of panel discussions. “Race and Redistricting” was the topic of the first panel, hosted by Lawrence Lessig, assistant professor of law, and joined by Elena Kagan, assistant professor of law, and Richard Briffault from Columbia University School of Law and Pamela Karlan from the University of Virginia School of Law. David Strauss, the Harry N. Wyatt Professor of Law, participated in the second panel of the day, dealing with campaign financing. Also participating were Bruce E. Cain from the University of California at Berkeley and Daniel Lowenstein from the University of California at Los Angeles School of Law.

Dan Kahan, assistant professor of law, moderated the final panel on alternative voting regimes. The closing address was delivered by John R. Schmidt, the associate attorney general of the U.S. All papers presented at the conference as well as related student comments will be published in Volume 1995 of The University of Chicago Legal Forum, to be published later this year.

FULTON LECTURE

“Natural Rights: Before and After Columbus,” was the theme of the 1994 Fulton Lecture, delivered on November 17 by Brian Tierney, the Bryce Edith Bowman Professor of Humanities at Cornell University. In his speech, Professor Tierney explored the origins of Western natural rights theories, their development up to about 1500, and America’s impact on their subsequent history.

“All the great world civilizations have strived to establish justice and order but they have not usually expressed their ideals in terms of individual natural rights,” noted Professor Tierney. “So the question a historian has to ask is what historical context, what set of circumstances, made the emergence of such a doctrine possible, or useful, or necessary? And what later historical contexts made the survival of the idea possible— including the context of the discovery of America? The problem is largely to understand how an ancient doctrine of natural law—ius naturale—became transformed into a theory of subjective natural rights inhering in individuals.”

The Maurice and Muriel Fulton Lectureship in Legal History was created in 1985 to underwrite a lectureship delivered by eminent scholars in the field. The lecture is made possible by a gift from Maurice Fulton ’42, and his wife Muriel, a graduate of the College.

EASTERN EUROPEAN CONFERENCES

WORKSHOP IN EKATERINBURG

The Ford Foundation supported a seminar on the future of the Russian Constitution, organized by the Moscow branch of the Law School’s Center for the Study of Constitutionalism in Eastern Europe and held in Ekaterinburg on October 19-20. Participants in the workshop, included a diverse group of lawyers, professors, and politicians, including Stephen Holmes, professor of political science and law and director of the Center.

SEMINAR ON THE RUSSIAN CONSTITUTIONAL COURT

On December 19-20, the Center held its second annual seminar on the Russian Constitutional Court. The conference was sponsored by the Open Society Institute and the MacArthur Foundation. Seven Russian justices participated, as well as Alexander Blankenagel, visiting professor of law at the Law School, Professor Stephen Holmes, and Lawrence Lessig, assistant professor of law.

Conference topics discussed included: How can the Court avoid self-destructive involvement in political questions? What are the most troubling self-contradictions in the December 12 Constitution? What interpretive strategies can the Court employ to resolve or mitigate these inconsistencies? What are the main defects of the Constitutional Court Act, viewed abstractly, before it has been tested in practice? Did the Court make the right decision when it decided to refrain from sitting until a full panel of nineteen justices was appointed?

CHICAGO CONFERENCE

On December 1-3, 1994, the Center held an international conference on the organization and functions of the parliaments in Central and Eastern Europe and the former Soviet Union. The conference was sponsored by the Soros Foundation. The Honorable Bronislaw Geremek, chairman of the Foreign Affairs Committee of the Sejm of Poland, opened the conference with a keynote address on the role and evolution of the parliament in the transition. Other members of Parliament who addressed the conference were: Peter Hack, chairman of the Legislative Committee of the National Assembly of Hungary; and Andrius Kubilius, member of Parliament of the Seimas of Lithuania. The conference focused on a regional comparison of the topics of the legislative framework of parliament through rules and procedures, the separation of powers and relations with other branches, the parliament’s role vis à vis society, and the role of the political parties in democratic
parliaments in Eastern Europe.

Participants in the conference included: Professors Stephen Holmes and Lawrence Lessig, and Dwight Semler, executive director of the Center.

**Landsbergis Address**

Vytautas Landsbergis, the leader of the Lithuanian independence movement, discussed the legal grounds for Chechnya's secession from the Russian Federation on Friday, February 10, in the Weymouth Kirkland Courtroom.

In 1988, Landsbergis co-founded Sajudis, the Lithuanian pro-independence movement, and was elected chairman of the Supreme Council. Under his leadership, the Lithuanian government restored its independence on March 11, 1990. Later that year, Landsbergis was nominated for the Nobel Peace Prize for his non-violent efforts to re-establish democracy in Lithuania. Ironically, his adversary, Mikhail Gorbatchev was awarded the Prize that year. Presently, Landsbergis is the opposition leader of the Seimas (Parliament), representing the conservatives.

In his three-year cooperation with the independence movement in Grozny, Landsbergis has continued to promote the use of legal means in gaining independence. Recently, he was asked by Chechen leaders to represent their case in debates with Moscow, but the talks were stalled as the Russian Security Council deployed troops into Chechnya.

During his lecture, Landsbergis argued that, like the Baltic states, Chechnya has a right to independence and self-determination. He told of his attempts to urge international organizations and western leaders to take a firm stance on this issue, and of their failure to suppress Russian aggression.

**Gender Bias Symposium**

"Numerous task forces composed of judges, lawyers, law professors, social scientists, and other experts have investigated gender bias in federal and state courts over the past twelve years," noted Visiting Professor of Law Kathleen Mahoney. "Their consistent finding is that gender bias in the courts, and in legal doctrine, methods, and procedures, is a pervasive problem with grave consequences. Virtually all of the task force reports, although differing in many respects, agree that a key solution towards eradicating gender bias is to be found in legal education."

With that in mind, Professor Mahoney convened "Gender Bias and the Law: Ideas for Education and Action," a two-day symposium that examined whether gender bias is created or perpetuated by the way law is taught. Numerous scholars, judges, and legal experts gathered on December 2-3 for a series of addresses and panels that focused on these issues. Topics included the origins and methods of gender bias, the responsibility of the legal establishment to address the issue, whether jurisprudence and constitutional law can be taught in unbiased ways, and challenges in the future for legal education. One workshop examined types and foundations of bias, and their consequences.


The closing remarks were given by Catharine MacKinnon, professor of law at the University of Michigan Law School and previously a visiting professor at the Law School.

Professor MacKinnon emphasized that legal education can play an important role in exposing inequities, because "law has a lot to do with what's systematic in legitimizing or institutionalizing" dominance in the law. She noted that such a system exacts a price from both men and women, and that "we need to find ways to lower the price."

**Public Service Law Week**

January 9-13 was Public Service Law Week at the Law School. Begun in 1993, the event is aimed at increasing student awareness of career opportunities in public service. Keynote address speaker this year was Alexander Polikoff '53, the executive director of Business and Professional People for the Public Interest (BPI), a Chicago public interest law center. Mr. Polikoff spoke on the values and meaning of public service careers.

On Tuesday, the students focused on a case brought before the District Court of the Northern District of Illinois that received national attention the previous fall, Ramos v. Kraft, a $10 million federal civil rights suit against a Chicago family accused of racial harassment against their next door neighbor of ten years. Part of the settlement issued by the U.S. District Judge ordered the defendants to sell their house and move from the neighborhood, an unprecedented remedy. Attorneys for the plaintiff were on hand to discuss the ruling and its implications.

![Image of Linda Hirshman '69](image1)

*Attorneys Michele Giffels of Alzheimer & Gray and Elizabeth Shuman-Moore from the Chicago Lawyers Committee for Civil Rights Under Law discuss Ramos v. Kraft on the second day of Public Service Law Week.*

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**Law School News**

24 THE LAW SCHOOL RECORD
On Wednesday through Friday, a series of panel discussions were presented on a broad range of public interest topics. Panelists included Michael Ruiz '93, staff attorney at Land of Lincoln Legal Assistance—Murfreesboro, Locke Bowman III '82, legal director of the Law School's MacArthur Justice Center, Roy Petty '81, director of the Midwest Immigrant Rights Center, Mark Lewis '91, staff attorney at the City of Chicago Department of Law, Matthew Crowl '89, assistant U.S. attorney at the U.S. Attorneys' Office-Northern District of Illinois, and Lynn Hartfield '91, staff attorney at the U.S. Federal Defenders' Office.

"An increasing number of our students are interested pursuing careers in the public service sector," said Dean of Student Affairs Ellen Cosgrove, at the conclusion of the week. "The eighteen speakers who participated in Public Service Law Week were passionate about their careers. I think their enthusiasm fueled our students' commitment to buck the trends, enter into a less structured job search, and forego high salaries in an effort to serve their communities."

**Roundtable Symposium**

"Intermediate Punishments: Viable Alternatives to Prison?" was the topic of the third annual Roundtable Symposium, presented by The University of Chicago Roundtable on January 20-21.

A series of panel discussions, papers, and comments filled the schedule during the two-day event. Among those delivering papers was David Friedman, the John M. Olin Visiting Fellow in Law and Economics at the Law School, who discussed English law enforcement in the Eighteenth Century. Other topics considered were "Reconceptualizing Punishment: The Case of Intermediate Sanctions," "Evaluation of Community Penalties," "The 'Machiavellian' Perspectives on Boot Camp Prisons," and "Have Intermediate Sanctions a Future?" Speakers and commentators included Law School faculty members Richard Epstein, Norval Morris, Randolph Stone, Tracey Meares '91, Albert Alschuler, Dan Kahan, and lecturer Shari S. Diamond '85.

The papers presented at the Symposium will be published in the spring/summer installment of The Roundtable.

**In Print**

**Game Theory and the Law**
*by Douglas G. Baird, Robert H. Gertner, and Randal C. Picker*

This book is the first to apply the tools of game theory and information economics to advance the understanding of how laws work. Organized around the major solution concepts of game theory, Law School professors Baird and Picker, and University of Chicago Business School professor Gertner show how such well-known games as the prisoner's dilemma, the battle of the sexes, beer-quiche, and the Rubenstein bargaining game can illuminate many different kinds of legal problems.


**The Constitution of the Federal Republic of Germany**
*by David P. Currie*

Beginning with an overview of the essential features of the Basic Law of Germany, David P. Currie explains those features by analyzing a number of decisions of the German Constitutional Court. Contrasting German constitutional law with the American model, Currie further illuminates the German system and provides an invaluable comparative perspective on American institutions, judicial methods, and constitutional principals. In addition, the German constitutional court recently has become the object of international attention as it has grappled with controversies involving abortion, ratification of the Maastricht Treaty, and the reunification of east and west. Currie examines these issues and their impact on the German constitution.


**Overcoming Law**
*by Richard A. Posner*

Legal theory must become more factual and empirical and less conceptual and polemical, Richard Posner argues in his new book. Praised by The New York Times, this collection of essays analyzes a wide range of topics, from feminist legal theory and the economics of homosexuality to literature and philosophy. Posner engages challenging issues in legal theory that range from the motivations and behavior of judges and the role of rhetoric and analogies in law to the rationale for privacy and blackmail law and the regulation of employment contracts.

**Student News**

**Fellowships Awarded**
Three Law School third-year students, Susannah Baruch, Adam Gross, and Miriam Hallbauer, were recipients of Skadden Fellowships this year. The fellowship enables each student to spend two years working in the public interest sector, without defaulting on student loans. Baruch will head for Washington, D.C., and work with the Women's Legal Defense Fund. Gross and Hallbauer will remain in Chicago, the former with the Business and Professional People for the Public Interest, and the latter with the Lawyer's Committee for Better Housing.

Susan Epstein '95 was awarded an Echoing Green Fellowship. Created by a committee of investment bankers, the scholarship funds long-term public interest projects. Ms. Epstein is creating a help-the-schools project with the Los Angeles media. Ms. Epstein is the first Law School student to be presented with this prestigious award.

**Phonathon Success**
Last fall, Law School students devoted six evenings to help the Law School raise funds by phone solicitations from alumni. This year's Fund for the Law School Phonathon was organized by Jennifer Gale '96 and Yashmy Jackson '96. Charles McCormick '95, Gesine Albrecht '96, and Kathy Conrow '96 served as chairs for the Mandel Legal Aid Clinic Phonathon.

In four evenings in October, the Fund for the Law School Phonathon surpassed their goal of $95,000 by raising $107,219 from 473 pledges. This includes a generous $10,000 challenge grant from Roger Weiler '52, who matched all new or increased gifts up to $10,000. Then, in November, the Mandel Legal Aid Clinic Phonathon added to the total by raising $22,410 from 138 pledges over a two-night period.

"Being involved with the Phonathon was a privilege for us," said Ms. Gale. "Of course, we enjoyed helping raise funds for the Law School. But probably even more, we were glad to be a part of what is now a solid Law School tradition." Ms. Jackson added, "We'd like to thank all the students for their efforts and to all the alumni for their generous response to the call for support."

**Black History Month**
February was Black History Month, and throughout the month the Black Law School Student's Association hosted events in honor of the first annual Celebration of African-American Heritage and Legal History. The events included speeches by Judge Michael Smiley, Juvenile Division of the Circuit Court of Cook County, who spoke on "Children Under Seige: The Criminal Justice System and Juvenile Delinquents"; Orrin Williams, an environmental consultant, who spoke on the impact of environmental hazards on poor and minority communities; and Jesse Jackson, Jr., son of the famed civil rights leader, who spoke on "Dialogue with Diversity."

A cultural Wine Mess was part of the celebration, which included a Caribbean band, the Muntu Dance Company, an African-Caribbean art exhibit, and cultural food reflecting the diverse African-American community.

**Charity Auction**
Backstage passes to next summer's Grateful Dead concert, an autographed picture of Mr. Spock from "Star Trek," and an afternoon with Professor Cass Sunstein's dog Bear were some of the hot items listed for this year's Charity Auction. Presented for the fourth consecutive year by the Law Students Association, the auction raised a record-breaking $15,990 to benefit the Blue Gargoyle Youth Service Center in Hyde Park. Once again, Professor Richard Epstein wielded the gavel, taking bids on over ninety items donated by students, faculty members, and law firms. The highest winning bid of the day was $1,525 for a wine-tasting tour for eight students with Professor Joseph Isenbergh, law professor and wine expert. Incidentally, an afternoon with Bear the dog went for $140—an increase of $60 from last year's bid.
Recent speakers at the Law School have included:

**Pete DuPont**
The former governor of Delaware and presidential candidate in 1992 (at top) spoke on the conservative agenda for the 1990s.

**Sam Casey**
The executive director of the Christian Legal Society (above) spoke on society's attitude toward mixing family and career.

**Jesse Jackson Jr.**
The son of the famed civil rights leader (above) spoke on “Dialogue on Diversity.”

**Ori Orr**
A member of the Knesset and chairman of its Foreign Affairs and Defense Committee (below).

**Arthur Avnon**
The Israeli Consul General in Chicago (above) spoke on the Middle East peace process in light of recent terrorist activities.

**David Wilhelm**
The former chairman of Democratic Party (left) spoke on the future of the Democratic Party.
ALUMNI NEWS

CHICAGO

LOOP LUNCHEONS
Loop Luncheons are held throughout the academic year at the Illinois State Bar Association offices, Two First National Plaza, 20 South Clark Street, Suite 900. The Organizing Committee, chaired by Milton Levenfeld ’50, invites you to attend future luncheons. New graduates may attend their first luncheon as guests of the Alumni Association. For more information on the luncheons, please call Eloise Takaki at 312/702-9628.

Kathleen Mahoney, professor of law at the University of Calgary and a visiting professor at the Law School, addressed the luncheon on November 14. Ms. Mahoney’s speech dealt with gender bias in judicial decisions, a topic on which she has written extensively and based a seminar during the autumn quarter at the Law School.

The luncheons continued on March 15 when Warren D. Wolfson, judge of the Appellate Court of Illinois, First District, spoke to over sixty graduates about the O.J. Simpson murder trial.

ON THE ROAD WITH THE DEAN

Douglas G. Baird, Harry A. Bigelow Professor of Law and dean of the Law School, has been meeting graduates across the country. In a series of luncheons, Dean Baird has addressed members of local alumni groups and friends of the Law School. He was able to use these informal gatherings to answer many questions about the current state of the Law School and to discuss his plans for the years ahead.

MIAMI

Dean Baird flew into Miami for a luncheon on January 31, hosted by Chapter President Alison W. Miller ’76, graduates were able to hear first-hand information on the state of the Law School. The luncheon was held in the conference room at Stearns, Weaver, Miller, Weissler, Alhadeff and Stitterson.

NEW YORK CITY

Lillian Kraemer ’64 graciously provided the conference room in the offices of Simpson Thacher & Bartlett for a luncheon held on October 27. Dean Baird was on hand and spoke informally to over eighty graduates and friends about the current state of the law school and his future plans.

WASHINGTON D.C.

A luncheon on January 23 was the occasion for Dean Baird to address Washington, D.C., graduates for the first time. John R. Labovitz ’69 graciously provided a room at his firm, Steptoe & Johnson. Edward Warren ’69, president of the Washington, D.C., chapter, introduced Dean Baird who spoke informally to over eighty graduates, and answered questions about new directions for the Law School.

WASHINGTON, D.C.

Tampa graduates greeted Dean Baird warmly and enjoyed a pleasant luncheon on February 1, hosted by James Shimberg ’49. Held at the University Club in downtown Tampa, the luncheon proved to be a great way to meet the new dean and get caught up with current events at the Law School.

HOUSTON

Cynthia Vreeland ’90 hosted a luncheon in the conference rooms of Baker & Botts on January 16. Alfredo Perez ’80, president of the Houston chapter, introduced Dean Baird who spoke informally about the Law School to the members of the local alumni association.

DEAN

Judge Wolfson has written and lectured extensively on all aspects of civil and criminal trial practice. He is the co-author of Materials in Trial Advocacy: Problems and Cases, in use at law schools throughout the nation, and taught trial advocacy at the Law School.

DEAN

On February 24, Dean Baird returned to his native city for a luncheon at the offices of Hoyle Morris & Kerr. Lawrence Hoyle ’65, president of the Philadelphia chapter, graciously provided a conference room at his firm for the event. A former resident of the Philadelphia suburb of Wynnewood, Dean Baird spoke to thirty-five graduates, updating them on the current events at the Law School.
MENTORING COCKTAIL PARTY

A cocktail party for alumnae and women students was held in downtown Chicago on Thursday, January 12. Over 120 students and mentors gathered at the Yvette Wintergarden for the event. The initial half hour was dedicated to networking among students and graduates interested in Public Service careers.

SALT LAKE CITY

On Friday, January 27, Michael W. McConnell '79, William B. Graham Professor of Law, was the guest speaker at a luncheon held by graduates in the Salt Lake City area. Rand L. Cook '73 graciously provided a conference room at the offices of Van Cott, Bagley, Cornwall & McCarthy for the occasion. Professor McConnell’s topic of discussion was “Disestablishmentarianism: A Good Word for the 90s.”

UPCOMING:

ALI BREAKFAST & ABA BREAKFAST

The Law School will host a breakfast on Wednesday, May 17, in conjunction with the American Law Institute meeting. The breakfast will be held at the Hyatt Regency Hotel in the Illinois Center, 151 E. Wacker Drive, in Chicago.

On Monday, August 7, the Law School will host a breakfast in conjunction with the annual meeting of the American Bar Association in Chicago. The guest speaker will be Roberta Cooper Ramo '67, the ABA's president-elect. The breakfast will commence at 8:00 a.m. at the new University of Chicago Downtown Center.

All graduates and friends of the Law School are invited to attend both events. For more information on the ALI breakfast and the ABA breakfast, please call Eloise Takaki at 312/702-9628.

WHY ISN’T YOUR CLASS YEAR LISTED BELOW?

Did your Class produce a composite photograph before graduating? The Law School is fortunate to own a composite copy of each of the following graduation years:


Is your year missing? Of course, there were many classes which did not have a composite photo made, but perhaps yours did. If your year is not listed above, the Law School would like to have a copy made of your composite for our files. Can you help? If you have any information on Lost Composites, please write to The Law School Record, 1111 East 60th Street, Chicago, Illinois 60637.
Class Notes Section – REDACTED

for issues of privacy
**Liberman '54 and the Holocaust Wall Hangings**

The art of Judith Liberman is a thing of terrible beauty. From December 10 to January 29, her show, "Judith Liberman: The Holocaust Wall Hangings," filled the DeCordova Museum in Lincoln, Massachusetts, with its beauty and horror. The thirty-six large-scale fabric hangings that constitute the show present a somber and unsettling account of one of this century's horrific events.

After producing more than two dozen canvas paintings on the Holocaust, Liberman switched to fabric in 1988 in a deliberate attempt to evoke the banners of the Third Reich. Combining an array of media and techniques—paint, printing, stenciling, calligraphy, appliqué, embroidery, and beading—and limiting her palette to underscore the horror—red for blood, gray for despair, and black for death—Liberman's wall hangings grip the viewer with haunting and brutal imagery.

"The Holocaust Wall Hangings" exhibit was originally presented at the Yad Vashem Museum in Israel, which is dedicated to the Holocaust. The loosely hung fabric pieces fall into two categories: "Scenes from the Holocaust" capture specific moments that emphasize the isolation and human degradation suffered by its victims; and "Maps of the Holocaust" document the places and events of the period, including Anne Frank's final, fateful journey from Amsterdam to Bergen-Belsen.

Born in Haifa, Israel, Mrs. Liberman settled in Boston while in her twenties. She graduated from the Law School in 1954 but chose a career in art instead. Accomplished in several media, Ms. Liberman has participated in numerous one-person shows in Boston, New York, and Israel.

Only hope that Rhita can handle all of this.

Norman Geis, who loves us, has finally admitted, in a letter to me dated August 16, 1994, that he is indeed a member of the mighty Class of 1951 and not part of those role models we looked up to in the Class of 1950. This was only a forty seven year effort but persistence pays off. Welcome home, Norm, and good luck as of counsel of Miller, Shakman, Hamilton, Kurtzon & Schlifke at 208 South La Salle. Let's kill the fatted calf.

Congratulations to: Ab Mikva for giving President Clinton his expertise as counsel (they were really lucky to get you, Ab—Bill needs all the help he can get); to Elaine Specter and Marcia Russ for putting up with Jerry and me and Class Reunions for so many years; to Dick Bockelman for opening a new, beautiful art gallery in La Jolla, CA; and to Bob Bork, for everything he's done. It's still a thrill for me to see Ab and Bob on TV. It was also great to talk with Howie Adler, who owes me info on Jerry Greenwald and others; Larry Lee, who is on lots of very important Boards etc; Karl Nygren, who keeps tabs on the West Coast gang (send more, Karl); Howard Edmunds, who still loves Humble, Texas; AlDROPKIN, still in practice; Jack Jensen, who had a stroke in 1993 but is OK; and Fred White, who does a lot of appellate work.

I just discovered a letter in the file from Frank Molek, dated September 1, 1982, when he was assistant dean. He advised me that the Class of 1951 Scholarship Fund would be treated as an endowed fund, that interest earned would be added until the fund grew to $12,000 and then the income from the principal would be used for yearly scholarships. The Fund at that time had $6,923.29 in it. Well, Dick Badger, dean of students and assistant dean, just wrote me that the Fund balance as of June 20, 1994, was $47,536 and that the annual scholarship is now worth $1,900. How about that!

The latest recipient of our efforts is Anders Jacob Kaye. He expects to receive his J.D. in 1996, and is a member of the Law Review (of dear memory). He has an A.B., cum laude, from Harvard and interned with the Justice Department in their Honors Program in the Civil Rights Division. He's worked as a paralegal, representing plaintiffs in employment discrimination suits; for an Alabama organization representing nearly every capital defendant in Alabama; and was the assistant manager of clothing for the St. Francis House Homeless Shelter in Boston. After fifteen years at Wards, I could have helped him out a little bit with that, not to mention my expertise with garage sales.

Congratulations to Anders (who will shortly receive a letter from me telling him about us!) and the Law School for another absolutely outstanding selection. Our Class Scholarship can always benefit from your gift, so please remember it in your planning and of course, always, the General Fund.

I still do a lot of piano playing for some public affairs and the Kansas City Rotary Club (eighth largest in the world); stay active in fund raising for the Law School and the University itself, and in leading the KC Rotary Club to #1 in the world in participation for its giant $331 million Foundation; feel fine but am still fighting PC with hormones to help slow it down; and work full time in Human Resource Consulting.

WRITE, CALL, SEND PICTURES. If you read this, you owe me a note. I need your input and it makes me feel wonderful to hear from you. Till next time, you're always in my thoughts and the very best to each of you from C. Franklin.
The Honorable Stephen A. Schiller participated in a seminar entitled "Current Motion Practice in the Cook County Law Division" on January 16. Judge Schiller spoke on "Practice in the General Calendar Call."

Ronald Lee Engel has opened a private office in Chicago, specializing in patents, trademarks, copyrights, and intellectual property.

Last fall, William G. Pfefferkorn taught a course on educational law for public and private teachers in Forsyth County, North Carolina. Presented at the Career Center of the Winston-Salem/Forsyth County School System, the course concentrated on recent opinions of the United States Supreme Court and the Supreme Court of North Carolina regarding the constitutional rights of teachers, students, and parents, as well as church-state issues.

Richard Singer was a contributing author to New Jersey Product Liability Law, a single-volume handbook published by New Jersey Law Journal Books. Singer contributed the chapter that focuses on basic doctrine.

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ASHCROFT ’67 ELECTED TO THE SENATE

The November elections which swept a host of new faces into Congress, brought along with it one Law School graduate not unfamiliar with the reins of government. The new Republican senator from Missouri, John D. Ashcroft ’67, is a man experienced in both politics and public service.

The son of a Missouri minister, Ashcroft attended Yale where he graduated with honors in 1964. He continued his education at the Law School, where he met his future wife, Janet E. Ashcroft ’68. After graduation, the Ashcrofts moved to Springfield, Missouri, where they opened an office together. Ashcroft, however, gravitated toward academia. He accepted a position at Southwest Missouri State University where he taught business law. While there, the Ashcrofts co-authored two law textbooks for use in junior colleges and business schools, *College Law for Business and It’s the Law.*

It was the 1972 race for the Seventh District congressional seat that first brought him into politics. This unsuccessful, yet impressive first attempt in the political arena brought notice to the young Ashcroft. He was appointed state auditor and has since remained in government service. In 1975, he was appointed an assistant attorney general, and in 1976, was elected attorney general.

In 1984, Ashcroft was elected governor of Missouri by receiving 57% of the vote. His success in carrying 107 of the state’s 114 counties constituted the largest Republican gubernatorial victory in Missouri history. Ashcroft bettered that record four years later when he won re-election with 64% of the vote, becoming the first Republican governor in the state’s history to serve two consecutive terms. In 1991, a survey of the fifty state chief executives ranked Ashcroft as one of the country’s five most effective governors.

Term limits forced him to step down in 1993, and Ashcroft left the state capital to practice law in St. Louis. However, when then-Senator John Danforth announced his retirement, Ashcroft stepped into the race. In November, Ashcroft won 60% of the state’s votes to become the freshman senator from Missouri. Ashcroft currently serves on the Commerce Committee, the Foreign Relations Committee, and the Committee on Labor and Human Resources.

John D. Ashcroft

Roberta at the ABA have decided to join forces on litigation and tort reform?

***Linda Neal*** is fully operative as the president of the University of Chicago Alumni Association. The whole enchilada, not just the Law School. Her job is to join with President Sonnenschein to “include alumni more fully in the ongoing life of the University...to lead the task force of volunteer alumni who have teamed with the University’s professional staff to define new programs, services, communications, and volunteer structures.” It sounds like a wonderful opportunity for Law School graduates to get involved with University activities at the local level. John and Cathy Gaubatz certainly have done that in the Miami area. It has helped them to sleep over at the White House, a dinner with Hillary Clinton (courtesy of Cathy’s relationship with Wellesley), and a host of relationships with smart and clever people who are not lawyers.

***Steve Boyers*** seems to have flown far from the law. His entrepreneurial efforts include The Personal Kaddy (a robotocized golf bag carrier), a systems and mass production orientation to the manufacturing of houseboats, a stud removal machine, a contingent workforce management company, and staffing for the hotel and resort industry in Hawaii. The man is hustling.

***Mike Sigal*** has moved to the village of Bannockburn with his lovely wife, Kass, his eleven-year-old daughter, Sarah, and an assortment of horses, dogs, cats, and guinea pigs. The man is stable, still at Sidley & Austin after all these years, with a corporate and securities practice and an increasing emphasis on executive compensation.

***Ed Flitton*** continues to function as the managing partner of the Colorado Springs office of Holland & Hart. He and Karen retire regularly to their condo in Crested Butte, take care of three parents, have two daughters in college, a third daughter recently married, spent the summer of 1993 in Italy, and manage all of the above by living in an old Victorian they bought in 1972 and driving old cars. Very conscious priorities. In his law practice, his local Retirement Board client has caught the attention of the local newspaper for its handling of retirement funds. They served up their famous expert—John Gaubatz—on page 1 and gave Ed some small copy on page B-10. Ed may forget that Gaubatz grew up in Colorado before going to U of C, and then following Sota to the University of Miami.

***Jim Williams***, at Middleton & Reutlinger in Louisville, continues to explore the efficiency wonders of the computer in the practice of law. His son, Kyle, has just passed the Indiana bar exam and this has given Jim the opportunity to think through the needs and opportunities of a start up law practice. Computers and technology are at the core of their thinking. Seems to me that Roberta Ramo, David Anderson, and Jim ought to start sharing their notes and to pass them on to all their classmates. Jim wrote a recent article entitled: “Technology is the Lawyer’s Equalizer” which should be of interest to the practitioners in our class.

2. On the International Scene

***Gene Dye*** of the Salans, Hertzfeld & Heilbronn firm in Paris continues to be our premiere networker. Mike Sigal reports of having lunch with Gene and Geoffrey Palmer. Gene faithfully leaves messages for classmates when he channel surfs through the U.S. He’s somewhat hard to connect with, but he’s clearly worth the effort.

***Art Massolo*** says “It’s déjà vu with wiser eyes and a different landscape” as he launches the First National Bank of Chicago’s new initiative in Latin America. The First appears to be changing its comprehensive international strategy of the 1980s to a selection of niche markets for the 1990s and beyond. Art is responsible for both the strategy and implementation of all corporate initiatives in Latin America for the First.

***Dick Franch*** went to Greece in the summer for a vacation with his children, and to Beijing on business in the fall. He indicates that he regards himself as a full-fledged international lawyer. Hey, if it’s OK with the I.R.S., it’s OK with me. Ed Waller and Laura are planning an April trip to New Zealand where they hope to see Geoffrey Palmer and lots of sheep. After their return, they go to Columbia for their daughter’s graduation from law school. In the meantime, Ed spends time planning professional seminars for the Florida Bar and the ABA and awaiting the arrival of a baseball team in Tampa.

3. And Our Academics

***Fred Morrison*** continues to teach at the University of Minnesota and is func-
tioning as acting dean. His academic interests take him back and forth to Germany with some regularity.

David Goldberger continues his work with the Ohio State University Legal Clinic. That got him into a Supreme Court argument last fall (McNulty v. Ohio Elections Commission). He is also preparing for argument in Capital Square Review v. Panette related to Klan displays and the establishment clause.


4. My Questions


Linda Thoren Neal reports a brief Chicago visit with Gene Dye of Salans, Hertfeld, Heilbronn. Quizzed about their expansion of activities in Russia, Gene noted that of his firm's ninety lawyers, fifty-five work in the Paris office and the balance are divided between St. Petersburg, Kiev, and Almaty (in Kazakhstan—an area rich in natural resources and only fifty miles from the Chinese border). The firm is actively seeking western-trained lawyers with knowledge of Ukrainian, Kazakh, or Russian for these outposts.

During her two-year term as president of the Governing Board of the University of Chicago Alumni Association, Linda is working to dramatically increase opportunities to all College and graduate school alumni to be more involved with the University throughout their lives. Neal writes: “A great strength of the University is its intense inward focus on the tasks and values which define it—creation of knowledge and transmission of knowledge. But alumni linkages represent another source of strength. Under Hugo Sormensein's leadership there is developing a very energetic effort to include alumni more fully in the ongoing life of the institution—for the benefit of both the institution and its graduates. My job is to lead the task force of volunteer alumni who have teamed with the University's professional staff to determine new programs, services, communications, and volunteer structures which will give reality to this new thrust over the next twenty-four months. To some extent, the Law School is a model of what might be achieved elsewhere in the University.”

Larry Bloom is a solo practitioner, an alderman of the Fifth Ward in Chicago, and ran for city treasurer of Chicago.

Danny Boggs proudly announces that his daughter Rebecca will graduate from Harvard in the spring of 1995 and enter Oxford University as a Rhodes Scholar next fall.

Judith Bonderman left the Center to Prevent Handgun Violence in 1993 to enter a Master's program at Johns Hopkins School of Hygiene & Public Health to study new public health approaches to violence prevention. She received her M.P.H. in May 1994, and is now director of the Advocacy for Victims of Gun Violence Clinic at The Catholic University of America's Columbus School of Law. A major focus of the program is to help students devise litigation strategies to hold the gun industry accountable to victims of gun violence.

In July 1994, Jan Brakel became vice-president of administration, legal affairs & program development at the Isae Ray Center, an independent private institute for forensic psychiatry. He is also director of research at DePaul University (Chicago)'s Health Law Institute and adjunct professor of law at its College of Law.


Richard Friedman is with Earl Neal & Associates in Chicago. He practices eminent domain, real estate and municipal
Please contact either Peggy Livingston or Bobbie Pokart with any news about yourself. Bobbie's e-mail address is downey@dltrell.com.

CLASS OF '79

Class Correspondent
Joanne Schreiner
Dinsmore & Shohl
1900 Chemed Center
255 East Fifth Street
Cincinnati, Ohio 45202-3172

Well, it worked. In the hope of flushing out some of our more reticent classmates, I sent my request for news only to those classmates who have not been mentioned in the column during the years I have written it. There are still many more who did not respond, and I promise we will figure out a way to reach them in the future.

Urs Baumgartner is a partner with Lenz and Staehelin, a firm which resulted from a merger of law firms in Zurich and Geneva. Urs is the author of a book on Swiss immigration legislation and handles legal matters for clients from all over the world. In September 1991, he organized a meeting of University of Chicago Law School alumni in Europe, bringing together nearly 100 former students from several generations. Urs writes that the spirit of the Law School is alive and well abroad.

George Bishop was married December 4, to Ann Julius, a lawyer who is employed as a mediator by the Ninth Circuit Court of Appeals. His wedding was attended by classmates Randy Litteneker, Tom Chandler, and Mike Schwartz. George practices business litigation with Furr, Fahrner and Mason in San Francisco.

Jon Carlson and his wife Susan have two children, Adam and Shelby. Jon and his family live in an old farm house in Iowa, where Jon teaches at the University of Iowa College of Law in Iowa City. Jon writes that he loves teaching, golfing, reading, writing, raising his children, and generally leading a quiet life. Lenny Friedman retired after twenty years in the Navy and started a second career with Welch and Katz, an intellectual property law firm in Chicago.

David Gleicher is a sole practitioner in Chicago, specializing in criminal defense (with medical malpractice defense and general litigation on the side). David said he has seen more of Becky Palfmeyer than any of our other classmates, since many of his clients have their initial appearance before her in her position as U.S. Magistrate. David writes a bi-weekly column on federal criminal law for the Chicago Daily Law Bulletin which "gets me publicity and renown, but no clients or free Bulls tickets." He lives in Skokie with his wife Ruth and their three children, Ilana, Ari, and Josh, none of whom (he says) has any desire to be a lawyer.

We all know this wouldn't be a real column without an update on Joe Markowitz. Joe has formed a new partnership, Markowitz and Blasberg, which continues to concentrate in commercial litigation, bankruptcy, and reorganization in L.A.

Chuck Price moved to the desert in 1979 to join Brown and Bain in Phoenix. (He claims his body thawed out some time in the mid-1980s.) Chuck and his wife Sandra have three daughters, Katherine, Courtney, and Diana. Chuck plays blues harmonica in a fifteen-piece band that performs regularly at Phoenix's premier blues club. (Why doesn't that surprise me?) One of his shows was attended by Casey Kasem, who said he could tell that they all enjoyed playing a lot. (Chuck assumes that's what he meant when he said "obviously, you aren't in this for the money"). Chuck is a partner with Brown and Bain and has taught negotiation and trial practice in Arizona and California.

Bob Kopecky and Rob Shapiro each have articles in volume 20, number 4 of Litigation, published by the Section of Litigation of the ABA. One of these articles, entitled "Derivative Litigation—a Primer" is a comprehensive, detailed, and scholarly assessment of the practical strategies and rules that apply in shareholder derivative suits. The other, called "Can a Litigator Be a Problem Solver?" is a series of theoretical musings about the state of the profession. Anyone that cannot tell which person wrote which article probably needs another semester in Tony Kronman's first year contracts class. (All right, I confess that I took that last paragraph verbatim out of Rob's letter to me.)

David Linnan is a law professor at the University of South Carolina School of Law. David spent 1994 in Jakarta, Indonesia, working out of the Jakarta Stock Exchange on a Fulbright Research Grant entitled "Indonesia and the Development of Securities Regulation in Emerging Markets." David is presently in Australia for six months visiting with economists and lawyers at the Australian National University specializing in Indonesia. David writes, "Private practice was more lucrative, but academia has its own charms. Where else do people give you money and send you overseas to look at interesting problems?"

A number of correspondents expressed some guilty feelings about having been so uncommunicative in the past. I was pleased to hear this, since I worked very hard to achieve exactly that effect. Repeat contributors, of course, are always welcome and I hope to hear from many of you on a regular basis. Please keep in touch or I will have to resort to further guilt-inducing measures.

Thomas E. Lanctot was elected a member of the Illinois Institute of Technology's Board of Trustees. Lanctot is a partner at the Chicago law firm Gardner, Carton & Douglas.
Jean Reed Haynes, a partner in the law firm of Kirkland & Ellis, was elected vice-president of the American Judicature Society at the Society's Annual Meeting in New Orleans.

David Jaffe was a recipient of the Roeper School's Golden Apple Awards. Jaffe is a 1974 graduate of Roeper, an independent school for gifted children. The award is in honor of his many humanitarian deeds and activities in numerous community religious organizations.

Cheryl Engelmann struck out on her own this January, opening her firm to continue her real estate and workout practice in Dallas. Her timing was impeccable, as her prior firm blew up literally while she was quietly having her announcements printed. She loves what she's doing, and, now that she has taught herself office administration and fifty-nine new software applications, even gets home before nine at night.

January found me packing up my household (currently at 6.5 mammals, 2.5 of whom are human) and moving to Fort Collins, Colorado, where my husband, Fred, has a job as CEO of a biotech company. I am manning the Colorado outpost of General Counsel Associates, made possible through high technology. Please look me up if you're on the Front Range for any reason.

Jonathan K. Baum, was appointed a partner in the litigation department at Katten Muchin & Zavis in Chicago.

Catherine Cooper was happy as a clam at the Barclays investment bank sub he joined last fall, doing lots of English deals and creating new financial products. He saw Gary Friedman '83 in N.Y.C.; Gary is a partner at Debevoise, and has two kids.

Further in the kid department, Bill Hardin had dinner with Jonathan Baum when Bill was in Chicago. Jon's then-ten-week-old baby girl also attended.

Don't forget to mark your calendar for May 4-6, 1995, for the 15th Reunion of the Class of '80!

McIntosh '83 Elected to Congress

Last November, David M. McIntosh '83 was elected the new Republican representative from Indiana's Second District. McIntosh is no stranger to Washington. He began work in the capital in the Reagan White House, less than three years after graduating from the Law School. He held several positions during both Reagan and Bush administrations. McIntosh gained renown as the former executive director of the Vice-President Quayle's Council of Competitiveness, the executive branch's regulatory review panel. The new Republican leaders have asked McIntosh to serve in a similar role, tapping him to head the new House Government Reform and Oversight Subcommittee on Economic Growth, Natural Resources, and Regulatory Affairs. McIntosh is also a member of the Economic and Educational Opportunities Committee.

Class Correspondent

Deborah E. Robbins
1845 Wallenberg Drive
Fort Collins, Colorado 80526
drobbins@gcounsel.com.

I received a letter about Thanksgiving time from Dave Baker, who is the very proud papa of Joey, a red-headed baby boy. Dave gave being a partner at a big Miami firm a whirl; it lasted three months. He's too dang cranky and independent after all those years on his own, he said. Dave also encouraged the sharing of Internet addresses (his is DaveBaker@AOL.com). Actually, these very brief notes were submitted to the Record via the Internet. My address, should you wish to communicate thus, is drobbins@gcounsel.com.

Charles Cope is happy as a clam at the Barclays investment bank sub he joined last fall, doing lots of English deals and creating new financial products. He saw Gary Friedman '83 in N.Y.C.; Gary is a partner at Debevoise, and has two kids.

Further in the kid department, Bill Hardin had dinner with Jonathan Baum when Bill was in Chicago. Jon's then-ten-week-old baby girl also attended.

Debra S. Fagan was named a partner at the Denver law firm Holland & Hart.

Elisabeth Robinson Günther left Heller Ehrman White & McAuliffe and set up her own practice, focusing on environmental law.

Class Correspondent

Clifford Peterson
266 Conestoga Road
Wayne, Pennsylvania 19087

Your correspondent, searching for a uni-

fying theme and failing to find one and resisting the alternative—to set the Class Notes in verse—simply plunges forward:

There are those of us—Barbara Anderson, for example—who continue to practice law (in her case, at Coffield Ungaretti & Harris), live in Hyde Park, and raise children. Make that two children for Barbara; for Kristina Ann Wald joined her sister Sarah (who has a three-and-a-half year old) in January 1994.

Winter is clearly a good time for children—even in New York, where with the new year comes a new baby. Rich Johnson and Sherry Agar announced the arrival of Matthew Phillip Agar-Johnson on January 4, 1995. What's more—thanks to the no-doubt sage advice of Mitch Tannenbaum—Rich, Sherry, et famille have committed to Gotham and bought a brownstone. New York is certainly rebounding.

Or just bounding. Blocks away, Denise Harvey became a mother on December 27 as she and Ken Edgar said hello to Alessandra Harvey Edgar. Three first names seems a lot, but it comes with the territory. Young Alessandra and young Matthew (supra) were not only born a week apart, but were within a quarter of an inch of being the same length. (What this columnist would like to know is how you measure a baby to within a quarter of an inch.)

And a week before that, Beth Streit and Bill had their third child, Rebecca Katherine Streit, born December 19, 1994, who joins brother Matthew (1988) and sister Sarah (1992) in what Beth describes as "the perfect Catholic family of the '90s."

And now a drumroll for what I think must be a first for the Class of '84: Mike
STEVE WALLACE '86 AND OMANHENE

In Ghana, where Twi is spoken, the word means "chief." But in this land where each tribe has a leader, there is more to it than that. There is yet one leader above all others. The paramount chief. The chief of chiefs. The Omanhene.

For Steve Wallace the word has taken on a special meaning. The 1986 graduate from the Law School has turned from the law and founded The Omanhene Cocoa Bean Company. Wallace is a chocolatier and his product is both delicious and eye-catching. Geared toward an upscale market, Omanhene chocolate is packaged in a gold ingot shaped box. Within are twelve individually foil-wrapped ingots of pure milk chocolate. Omanhene is the only chocolate manufactured in Ghana.

This is quite a switch for a former tax law practitioner and executive vice-president of Midstates Sportswear of Milwaukee.

"I started the company for many reasons," Wallace says. "Among them, I had followed, for some time, the disappointing long-term results achieved by foreign aid programs in Africa. Specifically, I believed that if Ghana grew the finest cocoa in the world, there was no reason that it could not produce one of the finest chocolate candy bars in the world. After all, it's Ghana's cocoa that is shipped to Swiss, French, and Belgian chocolatiers. I figured I'd give it a shot—I'd kick myself for not at least trying.

"I walked right in with no experience, never even made a plate of brownies. Eventually, the government officials thought: hey, maybe this guy is crazy enough to do it. The funny thing is Ghana's investment code is about five pages long. I went over there as a young lawyer with a joint investment agreement in my hand that went on for pages and pages—the most artfully crafted document you ever saw. They looked at me as if I were nuts. After a brief discussion we whirled it down to half a page."

Wallace spent years conducting tests. "I came up with a recipe and worked to improve its taste and texture. It was the most interesting, challenging, amazing period of my life."

After nearly four years of preparatory recipe work and package development, the product debuted in July 1994 at the International Fancy Food & Confection show in New York City. Since its unveiling, Omanhene chocolate has received notice in The New York Times; was selected by Chocolatier magazine as one of only three dark chocolates from throughout the world to be featured in the magazine's first Caribbean cruise chocolate tasting; highlighted in The Journal of Commerce; and awarded a Gold Medal and a Certificate of Design Excellence in New York City for the packaging by the Package Design Council International, the most prestigious and competitive package design jury in the world.

"I am proud that we produce our chocolate entirely in Ghana (from the growing of the cocoa beans to the wrapping of the bar in gold foil) and have been able to introduce a new food product on a relative shoestring—something that the experts in the industry and in the foreign policy establishment were unable to do despite their financial advantages. Also, I should admit that in large measure I undertook this endeavor simply for the creative challenge and enjoyment that such a struggle provides."

Omanhene Chocolate currently is available in gourmet stores. Wallace just completed his first international sale, to Japan. "I found it ironic that our shipment of chocolate coincided with the arrival of the first U.S.-grown apples in Japan after twenty-four years of effort. We sold our first account in Japan four months after first exploring the market. Just shows how much people like candy more than apples."

"The response has been wonderful. Better than I expected. I initially made a business plan that projected into the first two years. In the first three to four months, I've met 80% of that goal."

Graduates interested in learning where they can obtain Steve's chocolate, should call the company's toll-free number 1-800-588-2462 (Thar's: 1-800-LUV-CHOC). Members of the Class of 1986 are promised a sample during reunion weekend next May.

remain eligible, you need to provide us with more class news. Other restrictions apply. Void where prohibited.

Firm Favorites . . . We hear from Mark Turner that he remains at the same firm he started with in Portland in 1986, but "after a palace coup back in 1990, the names were changed to protect the innocent." It is now called Ater, Wynne, Hewitt, Dodson & Skerritt, and he's still doing commercial litigation. Mark is suffering, although recovering, from "Tonya withdrawal," after he enjoyed "fifteen minutes of fame last year as a legal color-commentator on the local NBC affiliate during the many Tonya Harding court proceedings," and "scored high on both technical performance as well as artistic presentation." Personally, we thought the highlight was his triple toe quad jump Hamill (not to be confused with Matt) camel.

Apparently, Jesse Elizabeth Turner (Mark and wife Nancy's third kid, born on January 4, 1995) is also scoring high marks for inducing sleep deprivation in her parents. Joining in the conspiracy are Caleb (six) and Meryl (four).

Mark sent news that Kurt Ruttum is also with the same Portland firm he started with after graduation. (According to
IN MEMORIAM

The Law School Record notes with regret the deaths of:

Lee A. Freeman

Lee A. Freeman, a respected Chicago attorney and a prominent patron of the arts died on March 6. He was the senior partner in Freeman, Freeman & Salman. Mr. Freeman pioneered the use of Rule 23 in class-action suits that recovered damages for public agencies that had been overcharged through price-fixing conspiracies.

Born in Roselle Park, New Jersey, Mr. Freeman graduated from Syracuse University and in 1933 he received his law degree Northwestern University. He began his career as an assistant Illinois attorney general that year. A year later he argued his first case before the U.S. Supreme Court while assigned to the Illinois Commerce Commission. Mr. Freeman left the commission in 1936 and spent the next twenty years as the principal litigation counsel for Commonwealth Edison and general counsel for Chicago Motor Coach Company, which later became the Chicago Transit Authority. Mr. Freeman also served as general counsel for the Yellow and Checker Cab companies, Parmalee Transportation Company, and Continental Airlines.

Over the years, Mr. Freeman became a major contributor to Chicago's cultural life. He served on the boards of the Chicago Lyric Opera, Chicago Symphony Orchestra, Music of the Baroque, Art Institute of Chicago, and National Institute for Music Theater. He was instrumental in the creation of the Lyric Opera in 1956 and at various times served as a director, secretary, and its general counsel. In the early 1980s, he was a co-founder of the “Do-It-Yourself Messiah.”

Mr. Freeman and his wife, Brena, provided numerous scholarships for young singers through the Lyric's Center for American Artists and supported the Lyric's composer-in-residence project. In 1975, Italy's president awarded him that nation's highest civilian honor for his work in behalf of opera.

Mr. Freeman and his wife were generous supporters of the Fund for the Law School. In 1977, they established the Lee and Brena Freeman Professorship in Law to support an individual whose scholarly and teaching interests include the study of comparative domestic, foreign, and international mechanisms of achieving and preserving competitive business conduct and the interaction of United States and foreign antitrust, tax, and other legal regulation of international corporations to that end. Holders of the Lee and Brena Freeman Professorship have included Richard A. Posner, Frank H. Easterbrook, and Daniel R. Fischel. In addition, the Lee and Brena Freeman Faculty Research Fund was created in 1986 to provide faculty support for research and study.

1928
Bernard A. Fried
October 8, 1994

1932
Herman L. Taylor
November 20, 1994

1933
Milton S. Applebaum
December 30, 1994
Thales N. Lenington
July 17, 1994

1934
James William Moore
October 26, 1994

1935
Meyer Lipschutz
October 26, 1994

1937
Peter M. Kelliher
November 9, 1994

1942
Robert L. Rupard
March 14, 1995

1950
Henry L. Stern
October 30, 1994

1951
John Borst, Jr.
February 1, 1995

1952
Stephen I. Martin
January 14, 1995

1953
David Lowell Ladd
October 12, 1994

1955
Howard C. Flomenhoft
January 30, 1995

1972
David C. Bogan
January 2, 1995

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THE UNIVERSITY OF CHICAGO LAW SCHOOL
THE 1994 VISITING COMMITTEE

CHAIR 1994-95
Mitchell S. Shapiro, '64, Shapiro, Posell, Rosenfeld & Close

TERMS EXPIRING 1994-95
Kathleen Wilson Benton '74
Neil S. Braun '77, NBC Television Network
The Honorable Jose A. Cabranes, U.S. District Court, District of Connecticut
Antonia Chayes, Consensus Building Institute
Thomas A. Cole '75, Sidney & Austin
Georgette D'Angelo, Metropolitan Properties
The Honorable W. Eugene Davis, U.S. Court of Appeals, Fifth Circuit
Gene E. Dye '67, Salans, Hertzfeld & Heilbronn
Richard I. Fine '64
Richard I. Fine & Associates
Rita Fry, Public Defender, Cook County, Illinois
Marian S. Jacobson '72, Sonnenschein Nath & Rosenthal
Jeffrey J. Keenan '83, UBS Capital Corporation
Dr. David A. Kessler '78, Food and Drug Administration
Esther F. Lardent, '71 American Bar Association
Michael E. Meyer '67, Pillsbury Madison & Sutro
Linda Thoren Neal '67, Linda Thoren Neal, Ltd.
Gerald Penner '64, Katten Muchin & Zavis
George Phocas '53
Gerald Ratner '37, Gould & Ratner
Lawrence E. Rubin '70, Rubin & Rubin, P.C.
David Savage,
Los Angeles Times
James H. Shimberg '49,
Town & Country Park, Inc.
Miodrag N. Sukijasovic '59,
The University of Ljubljana Law School, Slovenia.

TERMS EXPIRING in 1995-96
Stephen Chapman,
The Chicago Tribune
The Honorable David H. Coar, U.S. District Court, Northern District of Illinois
John M. Coleman '78,
Campbell Soup Company
Jack Corinblit '49,
Corinblit & Seltzer
John B. Emerson '78,
Deputy Director, Presidential Personnel Office
Harold L. Henderson '64,
Marilyn H. Karsten
Deborah Left '77,
The Joyce Foundation
The Honorable Timothy K. Lewis, U.S. Court of Appeals, Third Circuit
Nancy A. Liebman '79,
Sladden Arps Slate Meagher & Flom
David S. Logan '41,
Mercury Investments
Thomas L. Newman,
Thomas L. Newman, Esquire
John O'Malley '81,
Cook County (IL) State's Attorney
James G. Reynolds '68,
Portland Food Products Company
Richard M. Rieser, Jr. '68,
Oak Brook Bank
The Honorable Ilana Rovner,
U.S. Court of Appeals, Seventh Circuit
Leslie Shad '85,
CARE
Susan L. Steinhauer
Laurence N. Stenger '68,
Ampton Investments, Inc.
The Honorable James M. Talent '81,
U.S. House of Representatives
The Honorable Stephen F. Williams,
U.S. Court of Appeals, D.C. Circuit

TERMS EXPIRING in 1996-97
The Honorable Richard S. Arnold,
U.S. Circuit Court of Appeals, Eighth Circuit
Virginia L. Aronson '75,
Sidley & Austin
The Honorable Marvin E. Aspen,
U.S. District Court, Northern District of Illinois
Karl M. Becker '68
Stephen C. Curley '69,
Haythe & Curley
Daniel L. Doctoroff '84,
Oak Hill Partners, Inc.
Charles L. Edwards '65,
Rudnick & Wolfe
The Honorable Cynthia H. Hall,
U.S. Circuit Court of Appeals, Ninth Circuit
William M. Hardin '82,
Meyer Hendricks Victor et al.
Seymour M. Hersh
Arthur O. Kane '39,
Kane Doy and Harrington, Ltd.
Lawrence Shao-Liang Liu '82,
LEE & LI
Laurel J. McKee '64,
AT&T
Philip R. McKnight '68,
The Hotchkiss School
John A. Morris '49
Alfredo R. Perez '80,
Bracewell & Patterson
The Honorable Lee H. Rosenthal '77,
U.S. District Court, Southern District of Texas
Thomas J. Scorzà '82
Mitchell S. Shapiro '64
Shapiro, Posell, Rosenfeld & Close
Ricki R. Tigert '76,
Federal Deposit Insurance Corporation
Thomas E. Unterman '69,
The Times Mirror Company
Roger A. Weiler '52,
Intaglio Corporation