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A MESSAGE FROM THE DEAN

by Douglas G. Baird
Harry A. Bigelow Distinguished Service Professor of Law and Dean

In many respects, the Law School is what it is because it never fails to renew itself. I am reminded of this each quarter as classes convene and the intellectual energy that has always characterized us fills the lecture halls. Whether in torts with Richard Epstein or Alan Sykes, jurisprudence with Martha Nussbaum, or law and economics with Richard Posner, our vitality is abundantly evident.

An important dimension of this renewal is the appointment of new faculty. In recent months, the Law School extended offers to eight of the most sought-after academics on the market. I am pleased to report that all eight accepted and we are bringing onto the faculty perhaps the most extraordinary group ever to join a law school in a single year.

We have hired two brilliant teachers of tax: Julie Roin and David Weisbach. Julie, the Doherty Professor at the University of Virginia, taught here as a visitor in 1993 and we have finally been able to persuade her to come here permanently. With Joseph Isenbergh, she is this country's leading authority on international taxation. She will teach both the basic taxation course and the course on taxation of derivatives and other new financial instruments.

David Weisbach worked in Treasury after graduating from Harvard. In his second year of teaching at Georgetown, he has proved himself to be a most promising young tax scholar. David and Julie together will ensure the continued success of the University of Chicago Tax Conference (founded by Walter Blum and now celebrating its 50th anniversary).

Three new faculty members focus on corporate and commercial law: Saul Levmore, Lisa Bernstein and Eric Posner. Saul, now the Brokaw Professor of Corporate Law at the University of Virginia, visited the Law School in the fall of 1993. He has taught at Harvard, Yale and Michigan. A major legal scholar for more than a decade, his work spans commercial law, corporate law, tax, restitution and procedure.

Lisa Bernstein taught corporations and corporate governance at the Law School last fall. Coming from Georgetown, Lisa has examined how mercantile norms and commercial law interact. Her creative empirical work and dedication to understanding the law in action make her an intellectual heir to Karl Llewellyn and Soia Mentschikoff.

Eric Posner, professor of law at the University of Pennsylvania, taught bankruptcy as a visitor last fall. Drawing heavily on sociology and game theory, Eric covers all areas of commercial and corporate law.

In short, commercial law remains in good hands. Saul's far-reaching and eclectic imagination, Lisa's empiricism and Eric's interdisciplinary commitments run true to the values we have always had. With Randy Picker (who was appointed as the first Paul and Theo Leffmann Professor of Commercial Law earlier this year), they will ensure that one of our longest and worthiest traditions flourishes.

Chicago has long been known for bringing together the most promising young legal scholars in the country and we have done so again this year with Jill Hasday, Douglas Lichtman, and Adrian Vermeule. Jill graduated from Yale Law with a perfect record and is now clerking on the D.C. Circuit for Judge Wald. She has written on family law and federal jurisdiction, and will strengthen both areas of our curriculum.

Douglas Lichtman earned his undergraduate degree in computer science from Duke, where he finished first in his class. Also a graduate of Yale and an Olin Fellow there, he is regarded as the most promising young academic in intellectual property and the law of cyberspace.
Adrian Vermeule, a graduate of Harvard Law, is now a research fellow at Georgetown. He clerked for David Sentelle and Antonin Scalia before joining Kirkland & Ellis. His work on statutory interpretation (soon to appear in the Stanford Law Review) has already drawn considerable attention.

The Law School continues to flourish over many other frontiers. The construction of the new classrooms and the Arthur Kane Center for Clinical Legal Education remains on schedule and under budget. Everything will be ready by fall quarter and we are planning to hold the dedication shortly after Labor Day.

Our clinical program, likewise, is thriving. About thirty percent of our students work in the Clinic before they graduate and demand for clinical placements far exceeds availability. Under the leadership of Randolph Stone and the clinical faculty, our students are presented with a number of challenges in the different projects: homeless, anti-poverty, criminal and juvenile justice, employment discrimination, and mental health. As we reach the end of the Clinic’s fourth decade, I am pleased to tell you that the faculty has decided to expand the Clinic in a new direction by introducing an exclusively transactional program that will focus on helping entrepreneurs in the inner city start and run their own businesses. Modeled on the MacArthur Justice Project, this program in entrepreneurship will be done jointly with the Institute for Justice.

Our success in expanding the faculty and Clinic requires that we devote even more energy to strategic planning and alumni fundraising. I am therefore especially pleased to report that Judy Jobbitt has joined us as an associate dean and director of external relations.

Judy holds degrees from Northwestern’s Kellogg Graduate School of Management and its Medill School of Journalism. Her first career was as a journalist. She then turned to development work, first at a social service agency and then at Rush-Presbyterian-St. Luke’s Medical Center, where she shepherded major gifts. Returning to Northwestern, she was Assistant Dean for Development at Kellogg and then Assistant Vice President of University Development. For the last two years, she has been responsible for planning Northwestern’s $1 billion comprehensive campaign.

These are exciting times at the Law

Chicago has long been known for bringing together the most promising young legal scholars in the country and we have done so again this year.

Associate Dean Judy Jobbitt

School and, as our Centennial nears, I will be turning to you to help plan our future. Now, more than ever, your advice, counsel and support are critical. I hope to see many of you in my travels over the next year and, should you find yourself back on campus, please make a point of stopping by my office.
FALSE UTOPIAS

All too often, lawyers receive bad press for their role in modern commercial society: They are regarded as the fount of all obstacles to innovation and improvement. Oftentimes I am happy to join a fifth column against the excesses of law, notwithstanding my own training and credentials. But although those charges are often warranted, sometimes they are not. What I hope to do in this short talk is to dispel the illusion that all lawyers are necessarily pitted against productive labor. Accordingly, I want to address the positive legal contribution to setting up the framework in which commercial transactions, especially those in the information age, take place. I shall outline my themes in a somewhat broader context than is appropriate for the technical panels that rightly dominate academic conferences and publications. My self-appointed task therefore is to view intellectual property as part of the broader species of property rights.

I want to begin with one note of caution. When people get together to talk about their common problems, they tend to make gloomy assessments of their shared future. In many ways, the intellectual property business is booming. Ironically, however, people within the industry dwell not on its successes but on its problems; then, to highlight their angst, they feel compelled to construct some alternative utopia, which from a distance looks so pure and so rhapsodic that we can only dare hope intellectual property will reach that same level of coherence, simplicity, and rationality. To carry out this program, intellectual property takes as its benchmark the law of property as it relates to land and commodities such as wheat. We have heard that this area displayed a remarkable simplicity in which all the major economic problems had been solved. Our task therefore is to figure out how to make the law of intellectual property resemble property in land.

Ironically, the history of land law shows that this subject has been heavily contested from the beginning of time. Fortunately, understanding those disputes helps explain why the law of intellectual property will always contain certain irreducible uncertainties that no amount of legal reform can dispel. The frictions that inhabit any dynamic system block the creation of any utopia in human affairs.

THE ORIGINS OF PROPERTY

To see how this theme plays out, it's instructive to think about property rights generally—how they're orga-
The frictions that inhabit any dynamic system block the creation of any utopia in human affairs.

Title good against the rest of the world.

This position is subject to powerful philosophical criticism, which usually runs as follows: Since property is a social relationship between one individual and the rest of the world, why should the unilateral action of a single individual bind everybody else on the face of the globe without their consent? How is it, in effect, that we can impose these obligations without consent, when promises and agreements are ordinarily used to create obligations? To escape the aggrandizement of some, society has to resort to a top down system, one whose political processes allow for wide public participation. Consent is used to obviate the difficulties of unilateral action. But, of course, even a quick romp through history leads to the conclusion that, although this theoretical objection has been frequently voiced, it rarely prevails. Virtually every legal system contains a heavy bottom up component.

Lacking perfection, you should adopt the following frame of mind: For every particular rule on the assignment and creation of property rights, identify its correlative imperfection. If you imagine a world devoid of imperfection, you have backed yourself into a form of utopian thinking. What you must recognize is that, no matter how property rights are structured, so long as resources are scarce, people will have to be disappointed; so long as enforcement costs are positive, some scheming individuals can get away with breaking the rules. The task of the legal system is to minimize these imperfections. Given finite human resources and finite human intelligence, these untoward results cannot be eliminated, only reduced.

So, having identified the central problem with organizing the world from the bottom up, we must put our finger on the weak point of the top-down approach. It is quite simply this: If, in fact, individuals are treated as owning property in common, then how, by agreement, will they allocate particular portions of that common property to various members of the group? Anyone who has ever co-owned a summer home with his or her siblings will realize that these tasks of common ownership are often extraordinarily ticklish to discharge even within the con-
fines of a single family that otherwise enjoys good relations. Seeking to allocate the planet earth among individuals who do not speak a common tongue and who do not live in similar communities leads you quickly to the result that John Locke himself identified with such great clarity: If we wait until we get an unanimous consent to partition of the universe, we shall all starve first—a serious practical objection to common property regimes. The enduring advantage of a first-possession rule is, if you can eat what you grab, you won’t starve, preserving any option to deliberate over our collective future to another day.

LAND

Because both top down and bottom up are subject to powerful objections, neither can banish the other out of the field. Therefore, we observe both systems working side by side simultaneously and often at cross-purposes. If that’s true as a generic proposition, it’s certainly going to be true for land. So, what would be an indication of a top-down system in law? The most conspicuous illustration comes from our feudal English origins; after William the Conqueror took over England, he quickly partitioned much of the land among his henchmen and lords in exchange for promises to supply an extensive feudal army. So the entire system of English property law started from the top down. Top-down systems have some real efficiencies, but in the end this natural historical experiment exposes its weaknesses.

Start with the positives. The great advantage of a top-down system is that it puts your friends in the right places with the right resources at the right time. The initial conditions have a tidiness and rationality absent from the chaotic world of bottom up. But this top-down system is not likely to prove stable over time. By linking together service obligations with property ownership, death creates serious imbalances. It is easy for property to go to heirs, harder for those same heirs to assume service obligations to their lords. The entire effort to bundle land and services into a single contract becomes rickety and inefficient. Over long periods of time, the English constantly compressed the structure by eliminating intermediate layers of the feudal hierarchy. Sometimes land was abandoned or service obligations were neglected. Strangers could enter the land without any title at all. It takes five hundred years for ownership to begin to collapse into a bottom-up system in which individuals become ordinary outright owners of land measured by meters and bounds.

Does that slimming down free us of all government regulation? The answer is, of course not. Land ownership is much more complicated to operate than ordinarily supposed. Whenever I attend land use conferences, the walls and the moans of the various participants are at least as loud as those heard at intellectual property meetings. What triggers these land-based walls? First off, boundaries aren’t as clear or as powerful as one might hope. In addition to occasional disputes about locations, protracted battles occur whenever activities on one plot of land negatively affect the neighbors. Unhappily, conveyancing of land is often extremely tricky, as accretions to title build up over time. Stabilizing the entire arrangement required a top-down system—recording—to combat the pervasive risk of double-dealing, whereby X sells land to A, then to B, and then to C. Having partial interest in land (life estates, leases, mortgages) creates immense cataloging problems as well. Easements and restrictive covenants give individuals ownership claims in the lands of their neighbors, as do certain customary rights to hunt or gather shrubs and wood. Future interests in land (i.e., those which will or might fall into possession at some future time) can clog commerce and prevent current development. Suddenly, various rules restrict the types of interests that can be created in land and the mode of their sale or disposition. Secondly, the system is not self-sustaining: real estate taxes must be imposed for general upkeep and for special projects. Taxation requires the formation of governance units, blessed with coercive powers, to decide which local improvements are needed and how they are to be financed. Water rights run through land, and manifestly a bottom-up water system does not feature separate ownership but complex forms of common ownership, with correlative rights that vary from location to location by topography, technology, and custom.

So even before zoning, modern land use planning and environmental protection, seen from close up, is filled with glitches and warts. But if we step back a little bit to assess its overall achievements, our mixed system of rights in land is, in fact, highly successful, notwithstanding major errors at the margin. So from this quick trip I conclude that top down, bottom up is a false dichotomy introduced by an irresponsible speaker in order to intrigue his audience. For its part, the real world forces you to engage in mixed solutions. Nonetheless, the top-down/bottom-up dichotomy does not disappear. The results reached in seeking intermediate solutions are, to use a phrase from another line of business, heavily path dependent. If you start in the wrong place—usually top down—the errors are going to be larger and the corrections more chancy than by starting bottom up. In a perfect world, you could correct to the ideal, no matter what your point of departure. In an imperfect world, you’d best start at that corner closest to the ideal solution to make your journey shorter and less complicated.

THE SPECTRUM

Now, another way to test my approach—and I’m moving a little bit closer to intellectual property—is to question a dichotomy that was presented by Paul Romer who is not a lawyer, merely a world-class economist. Romer’s thesis is that you could divide the universe into two sets, one of which is called objects and the other, ideas. Now, that’s not a bad first
The moment a mild bit of functionality is injected into the analysis, Epstein’s Law (as it is now dubbed) is true: Every ideal solution is met with a decisive objection—which means that you always land in the soup.

approximation for how the world works, but many assets fall embarrassingly right between them. One of them is the spectrum. Do we call that an object? well, not quite. Do we call it an idea? not quite; indeed, not at all. But classification aside, how is it to be allocated? The case is instructive because the spectrum forms a bridge between the easily understood, so-called tangible assets on the one hand and the more difficult intangible assets, of which intellectual property is one on the other. How is the spectrum to be allocated? Historically, I’m happy to report, both systems of allocation have been tried. The original allocations took place in a much shorter time frame, given the rate of technological advance between 1910 and 1930, but in fact the bottom-up system for the spectrum seemed to work fairly well in the brief period it was allowed.

What is this system like? It says that just like land, you obtain ownership of a bit of the spectrum by occupying it. What does it mean to occupy some portion of the spectrum? Well, it requires more than just passing through a frequency while twisting the dials. You’ve got to sit on that frequency for a while, which means that you have to establish some kind of repetitive broadcast pattern that allows both users and rivals to treat that bit of spectrum as your own. The moment that process begins it will be necessary to address physical interference between neighbors, just as there are spillovers between neighboring landowners from certain kinds of use. It thus becomes necessary to settle on some kind of a “live and let live” rule to determine the tolerable level of reciprocal interferences. Fortunately, by customary practice, broadcasters met that challenge in the period, say, between 1920 and 1926, before the whole bottom-up enterprise fell apart under the weight of federal intervention and regulation.

Note the key features of the bottom-up approach. Initially, it features acquisition by first possession, which is then protected against interference. Once the rights are protected, then the owners of the thing may subdivide it or use it in any way, shape, or form they choose. The law replicates for this bandwidth the property rights system for land.

Enter the United States government. The key mover in the adoption of top-down regulation was none other than the then secretary of commerce, Herbert Hoover—a point that we shall pass over to talk about the larger issues. That top-down system holds that the world will look simply chaotic if private rights are acquired by individual grabbing; what is now required is government ownership of the spectrum, which is then allocated in feudal style by a system of grants. And that’s the system that was basically forced on the entire spectrum with the Radio Act of 1927, which has survived various transformations to this very day.

Now, many of you might say, “Look, we’ve got the best radio and television and telecommunications system in the United States on broadcast. How could you complain?” The way you can complain is to ask, What are the defects of the system if you look at it up close? Let me mention just a couple of them for you. One structural problem is that government broadcast licenses don’t have indefinite time horizons. In consequence the renewal process is enormously costly while fairly inviting protest groups to exercise political leverage for their own benefit. Property rights are indefinite; rent seeking takes place. Such a cycle applies to the spectrum as it applies everywhere else.

Then the next question, “Exactly how do you use the spectrum?” If you receive a license, you’re not allowed freely to subdivide the assigned spectrum as technology becomes more efficient. Under the present regime, no natural process pushes people to narrower bands for transmitting the same amount of information. Instead the lack of incentive, or even ability, to economize leaves huge amounts of waste inside the system. In addition, the initial central allocation rests on wild guesses as to what various sectors of the economy will require: so much spectrum to the military, so much spectrum to the weather service, so much spectrum for private industry, and so on. Of course these property right divisions by central government allocation do not correspond with
needed uses over time. The legislation needed to change frequency use takes place slowly, however, stand with much discontinuity and intrigue. Worse still, central allocation favors the large battalions: minorities, however described, find themselves locked out of the business because subleasing of spectrum space at market rates turns out to be illegal. Broadcasters by statute must supervise the content put out over their frequency and can’t be so vulgar as simply to lease out spectrum slices, however defined, to the highest bidder. By degrees the whole system becomes encrusted, unresponsive, and bureaucratic. The grants are rarely outright, and the strings attached often are designed to clamp down on dissent, controversy, and innovation.

The last seventy years of regulation have exacted a high price to overcome physical interference between neighboring frequencies. It is, in my judgment, vastly inferior to the bottom-up system that could have flowered if federal intervention had not nipped it in the bud. It is all too easy in dealing with novel resources to retrace the arguments over ownership in land—and to come out in exactly the wrong place. The novelty of the spectrum does not require a novel legal response. Imitating private systems of land ownership works far better than vainly seeking from the center some magic test for the public interest, convenience, and necessity.

INTELLECTUAL PROPERTY, AT LAST

Now, to finish this talk with a grand flourish, I should say—ah-ha!—having made the case with the spectrum, simply carry it over to intellectual property; this system too should be predominantly, if not exclusively, bottom up. Once again, to create this system by government grants and control counts as a desperate mistake. Unfortunately, the train that leaves from this particular station has to follow a somewhat different track from the spectrum analysis. Here’s why. The spectrum is a passive resource. It’s a commodity. It is not, as it were, content. But once you deal with content and ideas, the institutions of property associated with their use will have to adapt to the changed subject matter. It may well be regrettable but true that we require a higher level of government intervention, including some top-down supervision, for this system to operate.

Let me just mention a couple of complications that call for caution in taking property rights regimes across different resources. The first question to ask yourself is: How clear are the boundary conditions that separate the owner of the right from the rest of the world, that separate, as it were, me from thee? With respect to land, meters and bounds work pretty well most of the time. With respect to the spectrum, the system can be adapted by setting a permissible variation from some central frequency at some location and for some period of time. In intellectual property cases, stating the boundary conditions will be harder in some cases than in others. There’s not much of a boundary dispute in figuring out whether or not some dialogue comes from Shakespeare’s Hamlet. But in addressing whether one song is a knock off of another, the boundary conditions will become more indistinct than the simple copying analogy would suggest. When dealing with the scope of patents, expect endless difficulty in figuring out the breadth of a valid patent for an invention that has yet to be brought to commercial realization.

The moment a mild bit of functionality is injected into the analysis, Epstein’s Law (as it is now dubbed) is true: Every ideal solution is met with a decisive objection—which means that you always land in the soup. What do I mean by that? Well, one approach is to define patents broadly, which has the very desirable feature of encouraging the holder of a patent to invest extensively in the patentable resource. To define the patent too narrowly, after all, leaves its holder uncertain as to its future commercial uses. Why would you invest in the patent if its domain is tiny? So it looks like there is no resistance to the broad definition of patents. But scratch the surface and the trade-offs appear. Let the patent definition be too broad, and the patent’s primary function is no longer opportunity for development; now it forms a blockade against development by competitors. So what emerges is a world that makes patents either too broad or too narrow. Somebody who wants to ignore one form of error because he’s worried about the second misunderstands the nature of the problem. Working out these boundary conditions cannot be done in the obvious bottom-up way, as with a bunch of stakes and a piece of land. It’s a much more difficult process.

Duration, as is well known to intellectual property experts, also poses difficulties for patents, and copyrights, and trademarks. And it’s clear that the same solution won’t work for all of them. The most vexatious disputes probably arise with the patent law, mainly because everybody understands that technical innovation, if not done by A, can be done by B shortly thereafter; whereas most of us think that a Shakespeare sonnet, if not written by the first guy, is not going to be done particularly well by an impostor. So that suggests that you have shorter time limits for one thing than the other, but it doesn’t tell you exactly how short it ought to be; it doesn’t tell you whether or not patents ought to be renewed; and it doesn’t tell you what to do with interlocking patents or follow-on patents.

In the end the problems with land reappear with intellectual property, but they are not amenable to the same solution. What do I mean by that? Define the rights too narrowly, and the lack of protection invites a second inventor to expropriate the labors of the first. Define them too broadly, and both the first and second inventors have blockade positions with respect to each other, which can make their negotiations both futile and protracted. It’s just land. Either you risk expropriation or you risk coordination failure. You cannot eliminate both risks simultaneously, and you don’t know which interior solution minimizes the sum of these two defects. Once you understand that this pattern holds across the length and breadth of intellectual property, then you realize that
Ideas are not like the crop, which can be eaten only once. Great ideas can be used over and over again, so that the agricultural metaphor fails to describe the intellectual landscape.

It's not a single field, save in opposition to land and wheat. Within its own domain, further subdivision is required; patents have to be broken off from other areas and then broken up into use patents, process patents, and perhaps other divisions of which I am unaware. Trademarks and copyrights will each require its separate regimes, subject to further subdivisions.

Even when all the doubts are ventilated, the bottom-up elements still come out strong. The government may determine the boundaries of patents and their duration, but it does not hold the patents or decide how they should be used or marketed. Indeed within the basic parameters set by the law, private initiative drives the system. Use the patent of another, and you are liable for infringement, just as if you trespass against land. Own the patent, and you can sell or license it to another, with or without restrictions on its use or resale. The ability to create by agreement complex divisions of right by territory, by language, and by end use increases the flexibility of the system. So notwithstanding the injection of strong doses of government control, the dynamism in intellectual property still comes from the bottom up.

Yet it would be a mistake to assume that efficient use always requires the creation of intellectual property rights. As committed as I am to the institution of private property, it is easy to identify discrete contexts in which it is best to reverse field and assign certain things (e.g., ideas and mathematical theorems) to the public domain. Even though the law must create incentives for their creation, it has a still greater worry about the rate of their dissemination and use, which explains why intellectual property has wrinkles not found in the law of land and wheat, where it is relatively easy to embrace the proposition that he who sows shall reap because otherwise no one will plant at all. But what does it mean to reap when you leave the world of agriculture and enter the world of ideas? Once a great idea is out there, the marginal cost of its use by a second person is close to zero. Ideas are not like the crop, which can be eaten only once. Great ideas can be used over and over again, so that the agricultural metaphor fails to describe the intellectual landscape.

Now the basic difficulty is that, to set the right incentives for production, you have to distort the incentives on distribution. To get the proper incentives on use and dissemination after production, you must distort production. The theory of property law will not allow either of these problems to vanish. You will never reach a unique answer on the duration and scope of the rights as you can with land or wheat. The moment you accept the trade-offs, you acknowledge the errors. The moment you acknowledge the errors, you accept the necessity for estimating their scope and the inevitability of litigation in which both sides believe themselves correct. And once you recognize all this, you reluctantly accept the built-in undertow that no utopian vision can displace. It is part of the legacy of intellectual property.

So I end where I began. Knowing that some failures are the price of success, praise the success while seeking to limit the scope of the failures. And recognize that, no matter what view we take on the question of whether a patent should run for twenty or twenty-five years, the basic structure of the rights is, for the most part, as good as you're likely to get; its perfect agreement on necessary trade-offs is not possible, even though improvement always is. So don't look for utopia; you're not going to find it. Don't take land as a perfect model because it has its own internal difficulties and, in any event, its evident grounds of distinction. For today celebrate your successes; tomorrow you can again lament your failures.

Richard A. Epstein is the James Parker Hall Distinguished Service Professor of Law. This speech, in an expanded form, will appear in Capital for Our Time: The Economic, Legal, and Management Challenges of Intellectual Capital, edited by Nicholas J. Imparato, and is reprinted here with the permission of the publisher, Hoover Institution Press. Copyright © 1998 by the Board of Trustees of the Leland Stanford Junior University.
REFLECTIONS ON THE STUDENT BODY
We have welcomed the University of Chicago Law School's Class of 2000. The first graduating class of the next millennium consists of "children of the 70's," born sometime between Watergate and the Bicentennial. They take notes on laptops, they carry cell phones and beepers. They access transcripts through the University's Web Page. They job hunt online. They communicate with faculty and administrators through e-mail. They submit Bigelow assignments via the internet. They participate in on-line class discussion groups. Technology has brought exciting opportunities to the Law School and our challenge is to make use of the technology without losing our personal touch. Students still come to our offices with ideas, questions, and concerns but they are also able to make better use of their time. I cannot tell you how many e-mails I receive from students between 2:00 a.m. and 5:00 a.m.

As a relatively recent graduate, I am constantly astonished by the rapid changes taking place here on the technological front. However, in the midst of these changes, some things remain constant—the average Chicago student continues to be anything but average.

We are fortunate that our Law School consistently attracts a more diverse group of scholars. From athletes and actresses to musicians and physicians, Law School students bring experiences and accomplishments that enrich all of us on this side of the Midway.

Approximately 50% of the entering class has taken time away from school after college. As is typical for an entering Chicago class, the Class of 2000 includes a host of former paralegals, investment bankers, and legislative interns. These students are always able to bring a rich perspective gained through their exposure to the inner workings of the financial world, the legal arena, and the government. Their backgrounds are complimented by the many students who arrive with advanced degrees as well as those who are pursuing joint degrees, particularly in the JD/MBA program. We also see an increase in the JD/MD students enrolled at the Law School. In their "off" hours, many of these students work in the hospital and in local clinics to hone their medical skills during their three years of legal education. In addition to Kevin Devaney '00 (Tulane Med.), we have Tim Allen '98 (Baylor Med.) and Roger Wolfe '99 (Harvard Med.). In a more unusual career transition, Leslie Love '98 left her practice of veterinary medicine to practice law. We also have a couple of students who are simultaneously earning JD and MD degrees including Triste Lieu '97 (Harvard Med.) and Becca Brendel '00 (Chicago Med.).

The Class of 2000 also includes former members of the Peace Corps (Omer Beer), Americorps (Aparna Joshi), and Teach for America (Tom Morel); a few former college professors (Brian Butler, David Graver, and Allyson Newton); a doctor who spent time as an "Undersea Medical Officer" for the U.S. Navy (Kenneth Devaney); a television writer (Debbie Ezer); and a television actress (Kathryn Lucas).

Steven Segaloff, an Olympic athlete, left his position with the Senate Judiciary Committee to become a member of the U.S. National Rowing Team, placing fifth in the 1996 Summer Olympics. He joins fellow Olympian Brian Wanek '98 who captained the U.S. Olympic Speed Skating Team in 1994 (in a previous issue of the Record, we reported that Brian carried the Olympic torch in the 1996 nationwide relay the night before his Criminal Law final).

While the input measures of this equation are greatly impressive, the output measures are as well. So far, six members of the most recent graduating class are clerking on the Supreme Court (Chris Bowers, Dave Franklin, Sandy Glover, Rob Hochman, Howard Nelson, and Bo Rutledge).

While they are here, our students are engaged—inside and outside the classroom. The Roundtable recently sponsored a panel on "The New Chicago School" where professors discussed the study of norms at the Law School. This panel occurred a few weeks after the October 20, 1997, New Yorker reported this as the most significant movement in academia since law and economics. The Legal Forum sponsored its annual symposium "The Right to a Fair Trial." The Law School Democrats brought Chicago Mayor Richard M. Daley to campus for a lecture and the Law School Republicans brought author and former Reagan domestic policy advisor Dinesh d'Souza to campus to celebrate Reagan's 87th birthday.

Throughout the year, the Law Students' Association (LSA) meets regularly with the Dean to discuss matters of student interest. In addition, LSA coordinates student liaison groups to the various faculty committees. These students meet with faculty to discuss appointments, curriculum, exam policies, computer policies, the Bigelow Program, and career services.

Students run the nearly forty organizations that serve a variety of interests. The Edmund Burke Society is a conservative/libertarian debate society. Chicago Law and Society was started a few years ago to address interdisciplinary issues. Last year, they hosted an event focusing on lawyers in the arts. Their panel included the directors of the Art Institute, Field...
Museum and the Chicago Symphony. The Christian and Jewish Law Students Associations have provided community support to students. Law Women's Caucus sponsors panels on women in the profession and coordinates a big sibling program for all law students. Our intramural teams continue to dominate the University. The women's football team has won the University Championship for most of the last ten years.

In recognition of the importance of fostering strong and loyal ties to the Law School, the family of Don Egan '61 established a scholarship in his honor which recognizes the work of a student who demonstrates "a real interest in the Law School, leadership potential within the larger legal community, and who appears likely to become a loyal and supportive alum" as Don was. Laura Grisolano '98 is the first recipient of this scholarship. Laura, a mother of two, has been active as the chair of the student curriculum committee. In this capacity, she worked with faculty and students on significant changes in exam and paper policies, credit allocation, and curriculum planning.

In addition to participating in the numerous activities at the Law School, law students continue to contribute thousands of hours to the community each year. In fact, in recognition of these efforts, the ABA named the Law School the Public Service Law School of the Year for 1995-1996. Along with the students working in the Mandel Legal Aid Clinic, the Award honored student volunteers in the Neighbors program (tutoring students, working in soup kitchens), the International Human Rights Law Society, (representing aliens in deportation hearings), Streetlaw (teaching children in local public schools about the law), and the Volunteer Income Tax Assistance program (preparing tax returns for low income workers). In addition, the Chicago Law Foundation continues to raise money to support students seeking summer public service opportunities.

The breadth of experience students bring with them, coupled with the diversity of opportunity available to them once they arrive, makes the Law School a truly unique place. A few years ago, during the Law School's Admitted Students' Weekend, Ed Walters '96 tried to explain the environment to incoming students. I conclude with an excerpt of his remarks which summarize so eloquently, the strength of our student body:

"I never expected my legal education to involve a professor singing a chorus from Mozart's Requiem at the top of his lungs in the class of twenty students. One of my first upper-class seminars was a class on the historical origins of property. For the first class, Professor Epstein's reading assignment deviated from the typical law school fare: a short Old Testament story, a selection from Aristotle's Politics, and a chunk of the Institutes of Justinian (the ancient Roman code). As far as I could tell, the readings were unrelated at best, and completely random at worst.

"The class began in a small seminar room: 'What does this story from the Bible, which does not mention law, tell us about the property law during the time of the Old Testament?' queried Professor Epstein. I expected this query to be met with some theory about how unfounded the law was. I was wrong. The first student to answer had been a priest, and answered with a very rich discussion of the story's context in the Bible, in history, and in place and time. He offered an account of how the King's actions might be seen as a reflection of a certain regime of private property ownership granted by God and against a state. A second student, who had apparently done a good bit of Jewish biblical study, challenged the account and pointed out how the Jewish tradition differed from that of the former priest.

"Fantastic!" Epstein interjected. 'And what does this tell us about Aristotle?' Another student, who had spent much time before law school studying Greek philosophy, offered an account. Professor Epstein toppled him by suggesting an alternative reading of Aristotle. Another student challenged the professor, saying that the professor was not being faithful to the text. Another classicist before law school.

"Wonderful, very good," Epstein encouraged, stoking the class like a fire. 'That reminds me of the second stanza of Mozart's Requiem,' which he then sang in Latin at the top of his voice.

"Of course, there was someone in the class who was able to translate. Flawlessly.

"Now, I'm not saying that every class is like this (and that's probably a good thing). But the class really illustrated to me the resources available among fellow students. This was not a special seminar on Greek philosophy or on Latin. This was a class about history and political theory that was enriched by the students in the class and their diverse backgrounds. That is something I can say of every class at the law school: the students are engaged and interested, and they add to the educational experience both inside and outside the classroom."

We are fortunate that our Law School consistently attracts a more diverse group of scholars. From athletes and actresses to musicians and physicians, Law School students bring experiences and accomplishments that enrich all of us on this side of the Midway.

Ellen M. Cosgrove '91 is an assistant dean and dean of students at the Law School.
This Honor Roll reflects gifts received between July 1, 1996, and June 30, 1997. Those who have made gifts since July 1, 1997, will be recognized in the 1997-98 Honor Roll appearing in the fall issue.
A Message from the Fund for the Law School Chair

The Law School is fortunate to have 2,798 alumni and friends who contributed a record $1,905,857.02 in 1996-97. Thank you for your commitment and support.

As Fund for the Law School Chair, I am acutely aware of the challenges created by the rising costs of maintaining the Law School as a world class institution and the corresponding increase in the need for all of us to give as generously as possible. Over the years, we have met these challenges because so many of us realize how important the education we received at the University of Chicago has been to our professional and personal lives. And we understand the importance of providing that same excellent education to future generations.

During the past year, I've been fortunate to work closely with Douglas Baird and wish to express my gratitude for his leadership, his energy, and his support. Establishing a new record was accomplished through the teamwork of many volunteers. I am grateful to each of you who gave of your time. The members of the Leadership Committee are due a special thanks for their hard work in recruiting volunteers and encouraging alumni support.

The challenges to maintain the greatness of the Law School in a constantly changing environment continue. Because of committed alumni like you, I am confident that our fundraising goals will continue to be met or exceeded.

Thanks again for your support.

— Deborah C. Francke '72

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Heinz-Dieter Assmann served as the Max Rheinstein Visiting Professor of Law during the Autumn Quarter and taught a course on Integration of European Financial Markets. After serving on the faculty of law at the University of Heidelberg from 1985 until 1986, has since served as Professor of Commercial and Business Law, Comparative Law, and Jurisprudence on the University of Tübingen Faculty of Law. He has also been a visiting professor at the University of Tokyo in 1994 and at Chuo University in Tokyo in 1995. Professor Assmann has been the editor-in-chief of Die Aktiengesellschaft since 1993. His many publications include: Übernahmeangebote (1990), Einleitung in Grosskommentar zum Aktienrecht (1992), and Ökonomische Analyse des Rechts. He is co-editor and author of Insider Trading in Western Europe (1994), Wertpapierhandelsgesetz (1995), and Handbuch des Kapitalanlagechts (2nd ed., 1997).

This autumn, Lisa E. Bernstein served as a visiting professor of law, presenting a course on corporations and a seminar on topics in corporate governance. Ms. Bernstein began teaching at Boston University in 1991 and, after visiting at the University of Pennsylvania and the Georgetown Law Center, joined the Georgetown faculty in 1995. Ms. Bernstein's research interest is in the area of private commercial law. She studies industries that have opted out of the public legal system and have replaced it with privately drafted commercial codes and arbitration tribunals to resolve disputes.

Andrew T. Guzmán was appointed a visiting assistant professor of law and John M. Olin Scholar for the winter and spring quarters. Mr. Guzmán received both his J.D. from Harvard Law School and his Ph.D. in economics from Harvard University in 1996. Prior to coming to the University of Chicago Law School, he served as law clerk to the Honorable Juan R. Torruella, Chief Judge of the First Circuit Court of Appeals. Mr. Guzmán's research and teaching interests include international law (private and public), international trade, commercial law, and choice of law. He taught a Secured Transactions course in the winter and teaches a Securities Regulation in a Global Market seminar with Professor Stephen Choi in the spring.
Catharine A. MacKinnon has returned to the Law School in the spring as a visiting professor of law. Professor MacKinnon is a professor of law at the University of Michigan Law School and has taught at Yale, Harvard, Stanford, Minnesota, UCLA, University of Chicago, Osgoode Hall (Toronto), and the University of Basel (Switzerland).

Beginning in the mid 1970's, Catharine MacKinnon pioneered the legal claim for sexual harassment as a form of sex discrimination. Beginning in 1983, with Andrea Dworkin, she conceived and wrote ordinances recognizing pornography as a violation of civil rights. The U.S. Supreme Court accepted her theory of sexual harassment in 1986. The Supreme Court of Canada adopted, in part, approaches that she created with the Women's Legal Education and Action Fund (LEAF) to equality (1989), pornography (1992), and hate speech (1991).

She is author of Sexual Harassment of Working Women (1979); Feminism Unmodified (1987); Toward a Feminist Theory of the State (1989); and Only Words (1993), as well as numerous articles. Her casebook, Sex Equality (Foundation, 1998), a theoretical, comparative and international treatment centering on U.S. legal cases will be published in 1998. Professor MacKinnon presents a course on sexual equality and a seminar on sexual harassment.

Lecturers in Law

Barry Alberts accepted a position of lecturer in law for the spring quarter. He is a litigation partner at the Chicago law firm of Schiff Hardin & Waite, where he began practicing following his graduation from the Law School in 1971. Concentrating his practice on general business litigation, he regularly represents corporations, corporate officers, and directors, as well as lawyers and law firms, in a wide variety of litigation matters in both federal and state courts. Mr. Alberts currently is co-chair of the Trial Evidence Committee of the American Bar Association. He also is an adjunct professor of law at Northwestern University Law School, where he has taught courses in trial advocacy and legal ethics, and he has served as a faculty member at programs sponsored by the National Institute of Trial Advocacy. Mr. Alberts will be teaching the legal profession course in the spring.

Jessica Wilen Berg, the Section Director for Professionalism at the American Medical Association Institute for Ethics, was a lecturer in law at the Law School in the winter. She has taught research ethics, biomedical ethics, and law and medicine at the University of Massachusetts Medical School and at Michigan State Medical School, and bioethics and law at Northwestern University Law School. In addition she has served on numerous hospital ethics committees, institutional review boards (IRBs), and an animal care and use committee. Ms. Berg has written a number of articles in the areas of human subjects research and informed consent, including “When Push Comes to Shove: Aggressive Community Treatment and the Law,” “Legal and Ethical Complexities of Consent with Cognitively Impaired Research Subjects: Proposed Guidelines,” “Constructing Competence: Formulating Standards of Legal Competence to Make Medical Decisions,” and “Waiver of Informed Consent for Emergency Research.” She is presently at work on a book on informed consent. She taught a course in Law, Science, and Medicine.

Wayne Gilmartin, a principal at the Chicago firm of Goldberg, Kohn, Bell, Black, Rosenbloom & Moritz, served as a lecturer in law in the winter. Mr. Gilmartin, a specialist in real estate law, is a member of the American Bar Association Real Property and Probate Committee, the Chicago Bar Association, and the International Conference of Shopping Centers. He joined lecturer James Rosenbloom in teaching a seminar on the fundamentals of commercial real estate transactions.

During the 1997-98 academic year, Edward Glaeser serves as the John M. Olin Fellow in Law and Economics. Mr. Glaeser received his Ph.D. in Economics from the University of Chicago in 1992. Since that time, he has been at the department of economics in the University of Chicago where he is now the Paul Sack Associate Professor of Political Economy. He teaches the Ph.D. sequence in urban economics at Harvard. Currently, he is working on several topics in urban and social economics: the demand for religion, the decline in American segregation and the seeming decline in discrimination, rent control, the connection between poverty and cities, homeownership and values, the economics of architecture and the measurement of social trust.

Howard M. Helsinger presented a course on trusts and estates as a lecturer in law at the Law School. Mr. Helsinger, a 1978 graduate of the Law School, is a partner at Sugar, Friedberg & Felsenthal where
he specializes in estate planning and probate. He is vice-chair of the Probate Practice Executive Committee of the Chicago Bar Association. Mr. Helsinger has written extensively on estate planning and administration, and has taught estate and gift taxation at Chicago-Kent College of Law and the Northwestern University Law School.

**Stephen R. Latham**, the director of the Ethics Standards Division of the American Medical Association, served as a lecturer in law in the winter during the autumn quarter. A 1985 graduate of Harvard Law School, Mr. Latham received his doctorate in jurisprudence and social policy from U.C. Berkeley in 1996. He has lectured in philosophy and political theory at Brown University; in legal ethics at the law schools of Harvard University and U.C. Berkeley; and in health care business law at U.C. Berkeley and the University of Chicago Law School. He currently supervises the staff of the AMA's Council on Ethical and Judicial Affairs in researching and writing formal reports and ethics opinions, and works with the scholars and fellows of the Institute for Ethics at the AMA to develop ethics-related research projects and writing.

**James Rosenbloom** served as a lecturer in law during the winter quarter. A 1972 graduate of the Law School, Mr. Rosenbloom is a founding partner of Goldberg, Kohn, Bell, Black, Rosenbloom & Moritz, Ltd. where he has concentrated his professional practice in the area of real estate and finance. He is a regular faculty member of the Practicing Law Institute and has lectured and participated as a panel member at the Chicago Bar Association on various topics including REIT financing, commercial leasing, and tenant/lender relations. He has co-authored a published article on the subject of real estate documentation in secured corporate work capital loan transactions. He joined lecturer Wayne Gilmartin in teaching a seminar on the fundamentals of commercial real estate transactions.

**Javier H. Rubinstein** served as a lecturer in law during the autumn quarter. A native of Argentina, Mr. Rubinstein is now a senior associate in the Supreme Court and Appellate Advocacy Group at Mayer, Brown & Platt in Chicago where he concentrates in complex commercial litigation at the trial and appellate levels. He has handled numerous appeals in the federal and state appellate courts, including the United States Supreme Court, in the areas of class action litigation, product liability disputes, constitutional law, immigration law, and criminal law. He presented a seminar on the United States Supreme Court.

**Henry S. Webber**, vice-president for community affairs at the University of Chicago and senior lecturer in the School of Social Service Administration, accepted a position of lecturer in law for the spring quarter. His teaching and research interests focus on health policy, the organization and financing of human service delivery systems, and negotiations. Over the past few years he has taught negotiations to human service agency heads, state officials, and Japanese government officials. He teaches a course in negotiation theory and practice.

**Richard A. Zansitis** presented a labor law course at the Law School as a lecturer in law during the autumn quarter. Since 1985, Mr. Zansitis has been an attorney with the Office of Legal Counsel at the University of Chicago and is currently the University's associate general counsel. He is active in the Litigation and Labor and Employment Law Sections of the American Bar Association, particularly the Committee on Employment Rights and Responsibilities, for which he has been management co-chair of its program committee. He is also a member of the Chicago Bar Association, Chicago Council of Lawyers, the National Association of College and University Attorneys, the American Society for Legal History, the Organization of American Historians, and the American Historical Association.

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**Meltzer Honored**

Bernard D. Meltzer '37, the Edward H. Levi Distinguished Service Professor Emeritus, was a recipient of the new Norman Maclean Faculty Award presented by the University of Chicago. Named for the late professor of English who taught at the University for forty years and most noted for his 1976 novel A River Runs Through It, the award recognizes emeritus or senior faculty who have made outstanding contributions to teaching and to the student experience of life on campus. When presented the award at the Alumni Assembly on June 7, 1997, Prof. Meltzer was honored for setting high standards of intellectual excellence and for his commitment to students' welfare beyond the classroom. Prof. Meltzer was commended for his long career that included distinguished public service, pioneer writings in the areas of labor law and evidence, and a superlative teaching manner that mixed rigor and warmth to the acclaim of generations of students.

**Bigelow Fellows**

The Harry A. Bigelow Teaching Fellows program has been in existence at the law School for over forty years. Six fellows are appointed annually to design and implement a program of tutorial instruction for first-year students. Fellows provide instruction in legal research, writing, and analysis. Through their guidance, students develop skill in writing memoranda and other legal documents representative of a lawyer's regular tasks. In the spring quarter, the students divide into teams to prepare briefs and argue an appellate case before a panel of faculty judges. Bigelow fellows also serve informally...
as tutor-advisors and offer practice in the taking of examinations. The Bigelow Fellows for the 1997-98 academic year are:

Kari L. Aamot who is returning to the Law School as a Fellow for a second year. She received her B.A. magna cum laude in English and philosophy from St. Olaf College in Northfield, Minnesota, earning distinction in English and membership in Phi Beta Kappa. After a semester as a student teacher of literature and writing at Taipei American School in Taiwan, Ms. Aamot entered the University of Minnesota Law School, where she was a legal writing instructor and an editor on the Law Review. Following her graduation cum laude in 1995, she clerked for Judge Gary L. Crippen of the Minnesota Court of Appeals. Her interests include law and literature, criminal law and procedure, and critical legal studies.

Lisa Demsky received her B.A. in American studies at Stanford University in 1993, graduating with honors. At Stanford, Ms. Demsky served as editor-in-chief for a literary publication on gender issues. She received her J.D. from Yale Law School in 1996. While in law school, Ms. Demsky served as an editor on the Yale Journal of Law and Humanities and on the Yale Journal of Law and Feminism. She also served as director for the Temporary Restraining Order Project, a clinical program designed to help battered women. After graduation, Ms. Demsky clerked for the Honorable Cynthia Holcomb Hall of the U.S. Court of Appeals for the Ninth Circuit. Her interests include First Amendment law, intellectual property, evidence, and civil rights law.

John T. Parry received his A.B. summa cum laude in history from Princeton University in 1986. Following a brief stint on Capital Hill working for his hometown congressman, he graduated magna cum laude in 1991 from Harvard Law School, where he was chair of the Supreme Court Office of the Harvard Law Review. After graduation, he clerked for Judge James R. Browning of the U.S. Court of Appeals for the Ninth Circuit and spent several years as a litigator at Williams & Connolly in Washington, D.C. Mr. Parry’s interests include criminal law, torts, federal jurisdiction and procedure, and remedies.

Mark D. Rosen received a B.A. in economics and political science, magna cum laude, from Yale University in 1986. After completing his first year at Harvard Law School in 1988, Mr. Rosen received a Shapell Grant, which supported 2-1/2 years’ study of talmudic and comparative law. Mr. Rosen graduated cum laude from Harvard Law School in 1993, where he was an articles editor of the Harvard Law Review, and then clerked for the Honorable Bruce M. Selya of the United States Court of Appeals for the First Circuit. Since 1994, Mr. Rosen has been a commercial litigator at the Boston firm of Foley, Hoag & Eliot. His primary areas of academic interest are federal courts, land-use planning, intellectual property, the law of cyberspace, state and local government, American Indian law, constitutional law, jurisprudence, comparative law, and Jewish law.

Gregory M. Silverman received his J.D. from Columbia University School of Law in 1987, where he was a Harlan Fiske Stone Scholar and senior revising editor on the Columbia Law Review. Prior to attending law school, Mr. Silverman received his A.B. from Vassar College, and was a graduate fellow at the Massachusetts Institute of Technology in the Department of Linguistics and Philosophy, and was a president’s fellow at Columbia University in the Department of Philosophy where he earned his M.A. (1984) and M.Phil. (1991). Following law school, Mr. Silverman clerked for Judge Raymond J. Pettine of the U.S. District Court for the District of Rhode Island, received the Max Rheinstein Research Fellowship in Law and was a visiting scholar at the Lehrstuhl für Strafrecht, Strafprozessrecht und Rechtsphilosophie at the Universität Erlangen-Nürnberg. Since returning from Europe in 1991, Mr. Silverman has practiced law on Cape Cod where he has been active in environmental issues, serving as a member and chairman of the Cape Cod Commission (1993-1997), the land use planning and regulatory agency for Barnstable County, and as a guest investigator at the Marine Policy Center of the Woods Hole Oceanographic Institution. Mr. Silverman’s research interests include the logical foundations of judicial proof, jurisprudence, as well as fisheries law and policy. He is currently completing his doctorate in philosophy from Columbia.
Douglas J. Sylvester graduated from the University of Toronto in 1991 with a B.A. in history. He received his J.D. in 1994 from S.U.N.Y. at Buffalo Law School. Since 1994, Mr. Sylvester has attended New York University for his LL.M. and served as law clerk to Hon. C. Clyde Atkins, United States District Court Judge for the Southern District of Florida. Mr. Sylvester has previous experience teaching legal research and writing at Buffalo and St. Thomas University Law Schools. His interests include legal history, international law, and conflicts of law.

**Moving On**

Lawrence Lessig, professor of law, has resigned his position at the Law School. Professor Lessig, who joined the faculty 1991, accepted a position at Harvard Law School.

A member of the Law School faculty since 1992, J. Mark Ramseyer, Harold J. and Marion E. Green Professor of Law, accepted a position at Harvard Law School.

**Charity Auction**

One lucky bidder will be flying high in a glider along side pilot Scott Moore ’99—a prize that raised $250 and helped net $14,500 for the Law School's annual Charity Auction. This year, the six-year-old event introduced a couple of new features for the first time, proceeds raised will benefit two organizations: the Chicago Law Foundation, a student-directed not-for-profit group that provides grants to law students seeking summer public service interest opportunities, and the Woodlawn Foundation, a community service organization based in Chicago’s Woodlawn district. Over the past six years, the Auction has raised over $70,000 to help various South Side not-for-profit organizations.

In addition, this year marked the first time alumni were invited to join students and faculty in bidding for the myriad of listed items.

However, one feature remained the same: Richard Epstein, the James Parker Hall Distinguished Service Professor of Law, kept the proceeds (and the bidding) as lively as ever. A variety of tickets (airplane, sports, theater) were on the bill of fare as well as dinner engagements, ties, and tennis matches. An evening party at the home of Dean of Students Ellen Cosgrove ’91 to watch the last episode of “Seinfeld” went for $250. A copy of the Supreme Court brief for the Paula Jones case autographed by one of its principle authors, Professor David Strauss, brought in a cool $300. The highest bid of the night was the $500 shelled out for Chicago Bulls tickets donated by Senior Lecturer Andrew Rosenfield ’78. (And for those keeping score: this year, to spend an afternoon with Professor Cass Sunstein’s dog Bear will cost a lucky individual $80, that’s $20 more than last year’s winning bid.)

**Student News**

**Awards**

The following graduates received their degrees with Highest Honors and were inducted into the Order of the Coif: Sandra S. Glover and Robert N. Hochman.

The following graduates received their degrees with High Honors and were inducted into the Order of the Coif: Christopher P. Bowers, Andrew C. Finch, David L. Franklin, David M. Gossett, Montgomery N. Kosma, David A. Levin, Thomas B. Nachbar, Howard C. Nielson, Jr., Peter Bowman Rutledge, and David T. Sobota. In addition, Sally N. Abrahamson received her degree with Highest Honors.

The following graduates received their degrees with Honors and were inducted into the Order of the Coif: Nicholas DiCrescenzo, Albert L. Hogan III, Thomas E. Hynes, Aras Lapiniskas, Todd E. Molz, Nicole M. Pappas, and Alison L. Pollock.

CLERKS FOR THE 1997-98 TERM

Forty-six Law School graduates have accepted judicial clerkships for 1997-98, including three for the U.S. Supreme Court.

For the Supreme Court: Carl Nichols ’97 (Justice Thomas), Noel Francisco ’97 (Justice Scalia), and Mary Rose Papandrea ’97 (Justice Souter).

For the U.S. Court of Appeals, D.C. Circuit: David Franklin ’97 (Judge Williams) and Montgomery Kosma ’97 (Judge Sentelle).

For the Second Circuit: Miriam Halbauer ’95 (Judge Oakes), Andrew Finch ’97 (Judge Jacobs), and Sharon Swingle ’96 (Judge Leval).

For the Third Circuit: Benjamin Cooper ’97 (Judge Scirica), Lisa Monaco ’97 (Judge Roth), and Cheryl Stanton ’97 (Judge Alito).

For the Fourth Circuit: Howard Nielson ’97 (Judge Luttig) and Bo Rutledge ’97 (Judge Wilkinson).

For the Fifth Circuit: Thomas Dupree ’97 (Judge Smith), Kristof Hess ’97 (Judge Jolly), Carol Jones ’97 (Judge Davis), and Karen Manfield ’97 (Judge Smith).

For the Sixth Circuit: Brian Brooks ’94 (Judge Boggs), J Clegg Ivey ’97 (Judge Batchelder), and Asheesh Agarwal ’97 (Judge Siler).

For the Seventh Circuit: Ross Davies ’97 (Judge Wood), Sandra Glover ’97 (Judge Posner), David Gossett ’97 (Judge Wood), Robert Hochman ’97 (Judge Posner), Keith Sharman ’97 (Judge Easterbrook), and Tom Nibch ’97 (Judge Easterbrook).

For the Eighth Circuit: Geoff Manne ’97 (Judge Morris Arnold), Brad Huny ’97 (Judge Bowman), and Andrew Lloyd ’97 (Judge Arnold).

For the Ninth Circuit: Chris Bowers ’97 (Judge Rymner) and Todd Molz ’97 (Judge Goodwin).

For the Tenth Circuit: Diane Kuek ’95 (Judge Ebel).

For the U.S. District Courts: Trish Bonheyo ’97 (Judge Schwarzer, N.D. CA), Andrew Heeger ’97 (Judge Kelleher, C.D. CA), Tina Kourasis ’97 (Judge Konor, N.D. IL), Emily Kuo ’97 (Judge Quist, W.D. MI), Maren Lee ’96 (Judge Bullock, M.D. NC), Ajit Pai ’97 (Judge Feldman, E.D. LA), Noah Salmon ’96 (Judge Messitte, MD), Jennifer Rubin ’97 (Judge Coar, N.D. IL), Chapin Cinino ’97 (Judge Ludwig, E.D. PA), Kristina Reynolds ’97 (Judge S.D. FL), Liz Hefferman (L.L.M.) ’97 (Judge Hart, N.D. IL), and Matthew Prewitt ’96 (Judge Sprizzo, S.D. NY).

For the U.S. Court for International Trade: Judith Wise ’97 (Judge Rostani).

For the U.S. Tax Court: Victor Hollender ’97 (Judge Begbe).

EDITORS FOR THE 1997-98 ACADEMIC YEAR

The Law School’s three student-edited journals are pleased to announce the 1997-98 managing boards of their respective publications.

The University of Chicago Law Review managing board for Volume 65 includes: Martin J.E. Arms, editor-in-chief; Sonja R. West, executive editor; Israel E. Friedman, C. Kevin Marshall, and Mary Beth B. Young, articles editors; Sanford I Weisbush, topics and comments editor; Jane Elinor Notz, managing and book review editor; Gregory E. Ostfield, production editor; Elizabeth K. Derbes, Sonia K. Kattyal, and Jennifer L. Keating, topic access editors; and Ashley S. Deeks, Audrey M. Fried, Thomas A. Lambert, and Christopher C. Wang, comments editors.

The editorial board for The University of Chicago Law School Roundtable includes: Marcos Velayos, editor-in-chief; Linette Hwu, executive editor; Carey Bartell, senior articles editor; Kari Sanderson, senior interdisciplinary programs & topic access editor; Lisa Scroggs, articles editor; Kevin Poloncarz and Tyrone Rachel, interdisciplinary programs & topics access editors; Amelia Cottrell, book review editor; Eric Keppeler, senior comments editor; Brad Voss, comments editor; and Matt Moran, managing editor.

The members of the editorial board for The University of Chicago Legal Forum are: David Gordon, editor-in-chief; Joshua Yount, executive editor; Ross Guberman, Steve Hasegawa, John Sheahan, articles editors; Alan Schafer, symposium editor; Laura Weinberg, public relations editor; Andrew Trask, senior comments editor; Adam Biegel, Nicole McGinnis, and Tom Page, comments editors; Tilda Cho, managing editor; and Bob King and Kevin Learned, associate editors.
Class Notes Section – REDACTED

for issues of privacy
CLASS NOTES

CLASS OF 40

Class Correspondent
Thelma Brook Simon
3119 Wilmette Avenue
Wilmette, Illinois 60091-2925

The Class of '40 reports, as the old saying goes, "Some good news and some bad news." The sad news is that our Justice David Linn, retired Justice of the Illinois Appellate Court, died this past summer. His public service on the Illinois Constitutional Convention, and his judicial service, first as judge in the Divorce Division of the Circuit Court, and then as Justice of the Illinois Appellate Court since 1976, all reflected wisdom, compassion, and practicality, and was always devoid of arrogance. David's pattern of life was a significant legacy to his wife Doris, his family, and to us, his colleagues.

The good news is that Dan Smith married Carol Anderson in Tacoma, Washington. She and her now-deceased husband had been friends for over 40 years with Dan and his wife Louise, who we recall died suddenly in 1995. They had all shared a host of good memories. We wish Dan and Carol our very best.

More good news: "Hugh" Harsha and Joe Baer, two octogenarian retirees, are perpetuating their youth by weekly golf games on the North Shore and continuing in Florida. Hugh admits, though, that neither of them has yet "shot his age." The Harshas visited Sanibel this winter, and once again celebrated their annual family Christmas party at Ponta Vedra Beach. To perpetuate a youthful mind and keep out the cobwebs, Bob Cook never misses his regular bridge games at the Highland Park Senior Center. As the Masters say, "Let no one think that bridge is just a game."

In his return phone call, Bob Vanda of Wittier, CA, reported he was "basking in the glory of our new Kane Center for Clinical Legal Education and in the glory of the

awards given to our former Law School dean and now University provost Geof Stone." Bob added that when the Law School Record arrives he turns first to our Class Notes to get all the latest news of our classmates.

In an academic vein, Tucker Dean, Emeritus Professor of Law, of Cold Spring Harbor, NY, has on his "front burner" his article lauding our deceased Professor Emeritus William Crossley's well-researched interpretation of the U.S. Constitution, which Tucker believes would have eliminated much litigation.

Ever mindful of our responsibility as alums for good government, Saul Stern of Montgomery County, Maryland, was the recipient of Maryland's Distinguished Service Award presented by Governor Glendening. On a more light-hearted note, Saul and his wife Marcia were honored by a fourth celebration of their 50th wedding anniversary given by friends in different parts of the country.

On the practical side, our retired Illinois Appellate Court Justice Leonard Hoffman devotes his mind to the stock market and banking trends on behalf of his own First National Bank of Dwight. He aptly paraphrases Daniel Webster's words in the unforgettable Dartmouth College Case: "It's only a small 'bank' (college) but there are those of us who love it."

Equally practical is our Harold Kahan of New York, for even though he and his Florence have taken short scenic trips, Harold admits he is still only "flirting" with retirement. In contrast, your correspondent has so many retirement interests she wonders how she had time for her extended legal career.

Perhaps the major achievement of us survivors of the Class of '40 is as Fred Ash of Dallas says, "We're coping." To which the rest of us would add "with time's physical inconveniences."

CLASS OF 47

Theodora Gordon was installed as the first woman president of the Decalogue Society of Lawyers during a ceremony held at Chicago's Hyatt Regency Hotel on June 19.

PRESIDENT HONORS STUDS TERKEL '34

A

uthor, historian, and radio talk show host Studs Terkel was on hand with conductor James Levine, musician Jon Henley, actress Angela Lansbury, University of Chicago's Martin E. Marty, and other artists, scholars, and philanthropists to receive national medals of arts and humanities from President Clinton on September 29. "We are, always have been, and always will be a nation of creators and innovators," the President said during ceremonies held in the Rose Garden of the White House. "We are, always have been, and always will be a nation supporting our artists and scholars. It is our heritage. It must be a great gift we give to the future."

Terkel was among 21 Americans who were recognized for their contributions to the arts and the humanities in America. The eighty-five-year-old Pulitzer Prize-winning author was one of ten recipients of the National Humanities Medal, the nation's highest humanities award which replaced the Charles Frankel Prize in Humanities.

Commenting on the award, the author of "Working" and "Coming of Age" told the Chicago Sun-Times, "In 1934 I graduated from the University of Chicago Law School, and I promptly flunked the bar exam. It was a bleak moment. But now look: how many years later... 63... and here I am. If you hang around long enough, anything can happen."
CLASS OF '58

Prof. Sanford N. Katz was a visiting fellow at All Souls College, Oxford during the Hilary and Trinity terms of 1997. Katz is a Professor of Law at Boston College.

CLASS OF '62

On September 10, the Women's Bar Association of Illinois presented its first Service Award to former WBAI president Charlotte Adelman in honor of her efforts in maintaining the recorded history of the association, including creating the WBAI archives at the Chicago Historical Society, writing and co-ordinating the publication of WBAI: The First 75 Years, and organizing the oral histories of many of the association's members.

Bruce D. Campbell was elected managing partner of Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C., in Pittsburgh.

Arthur Peterson was re-elected president of the Alaska Legal Services Corporation, a statewide organization providing free civil law legal services to the indigent. Mr. Peterson regrets to report that his wife of 32 years, Carolyn Hobbs Peterson, died on May 17, 1997.

CLASS OF '64

Robert McKee became "of counsel" to Schiff Hardin & Waite in its New York office.

CLASS OF '65

Charles Edwards teaches Real Estate Property Law at Chicago's John Marshall School of Law in their Masters of Real Estate Law program.

1965 Convocation '97: Douglas McBroom and his daughter, Maurin McBroom '97. Maurin continues the family connection with the University of Chicago as eight members of the McBroom family are graduates of the university, three from the Law School.

CLASS OF '68

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

Your class agents regret deeply having to report that our class has lost a member. Ann Lee Delugach died suddenly on April 25, 1997, of complications from diabetes. After our graduation, she was an assistant district attorney in Fort Worth, Texas, and later practiced in Memphis, her home. In recent years, she was a free-lance writer and owner of a bookshop.

It particularly hurts us because she was our good friend; indeed, she was Ann Lousin's roommate during law school and a frequent travel companion since then. We shall miss her as one who loved law, books, friends, and life.

Delos N. Lutton, shareholder at the Milwaukee law firm of Reinhart, Boerner, Van Deuen, Norris & Rieselbach, was elected the U.S. national vice-president of the UIU-International Association of Lawyers.

DEAN'S LIST, PART I

Washing University School of Law
Dean Dorsey D. Ellis '63 announced his retirement as dean of the school after ten years of service. When his tenure is completed on June 30, 1998, Ellis will take a sabbatical before returning to the school as a professor of law.

During his tenure, the school constructed a new facility, a project he began planning almost immediately after accepting the position of dean in 1987. Anheuser-Busch Hall replaces the inadequate former quarters of the law school and reflects Ellis' vision of combining the latest technological advances in legal education with the tradition of collegiate gothic architecture.

Under his leadership, the school also completed the most successful fund-raising campaign in its history, raising $20 million to meet its campaign goal in time for the building's September 26 dedication, twenty-one months ahead of schedule.

A resident of University City, Missouri, Ellis received his bachelor's degree from Maryville College in 1960 before graduating from the Law School in 1963. After practicing law in New York for five years, Ellis relocated to the University of Iowa where he served as professor of law, and vice-president for finance and university services. Currently, he is vice-chair of the Board of Directors at Maryville College and a recipient of that college's Distinguished Alumni Award.

Ellis vows to devote more time to teaching and research. "I have been privileged to serve as dean," he said. "These have been years of personal growth and great satisfaction for me."
respondent and her daughter Ellen (age twelve) visited Australia last summer. While in Adelaide, they had dinner with Alex Castles '57 and Tony Moore '70 who are members of the law faculty at Flinders University in Adelaide.

Tom Harding, who practices bond law with Sales, Goodloe & Golden, has been appointed the "Official Pianist" for the John Marshall Law School's Center for Real Estate Law by the center's director, Celeste W. Hammond '68.

On March 20, the Section of the Americas of the Friends World Committee for Consultation (FWCC) re-elected Cincinnati attorney Thomas C. Hill as presiding clerk and chair of its governing executive committee. The FWCC acts as the coordinating body for Quakers worldwide, encouraging discussion of differences in theological approach and unity in religious testimonies. Hill has served twelve years as a representative to FWCC, originally appointed by the Wilmington Yearly Meeting of Friends and its 33 congregations in southwest Ohio and eastern Tennessee.

T.J. Mullin received the 1997 Missouri Bar Association's Michael R. Roser Excellence in Bankruptcy Practice Award at the MBA's annual meeting on September 19. This is the first time this award was presented to a lawyer who represents debtors exclusively.

Mark Aronchick received the Community Legal Services' Champions Award at the Services' 1997 Breakfast of Champions last spring. This annual event, sponsored by the Philadelphia Trial Lawyers Association, brings together leaders of the surrounding community to recognize the important work of Community Legal Services and the key individuals who advance the cause of equal justice. Aronchick, a founding shareholder and a member of the board of directors for the Philadelphia firm Hanley Aronchick Segal & Pudlin, was recognized for his long career of service that included terms as vice-chancellor of the Bar Association and president of the Philadelphia Bar Foundation, and oversaw record-setting fundraising efforts for thirty nonprofit organizations throughout the region.

John McLees joined the Chicago office of Baker & McKenzie as a partner in the firm's Latin America practice group. McLees was ranked as one of the leading advisors on Latin American tax matters in a poll of corporate tax directors conducted by the International Tax Review of London.

Lawrence Rosen, professor of anthropology at Princeton University, was awarded his institution's Distinguished Teaching Award for 1997. Rosen, who in addition serves as an adjunct professor of law at Columbia Law School, was also named a Phi Beta Kappa Visiting Scholar.

Stuart Cohn left private practice to become vice-president and general counsel of Web Street Financial Group, Inc., the parent company of Web Street Securities, Inc., an on-line securities brokerage firm. Stu was pleased to report that in its March 16, 1998, cover story article on on-line brokers, Barron's ranked Web Street (still less than a year old) No. 2 among all on-line brokerage firms.

After twelve years, Ann Bartsch resigned her position as the Oregon State Bar's Pro Bono Administrator and the Oregon Law Foundation's general counsel.

In October, Kathleen D. Koch was appointed the chief of the Office of Equal Employment Opportunity Affairs. Koch is a 20-year veteran of the federal government and most recently served as head of the United States Office of Special Counsel.

Gloria Phares joined the New York firm Patterson, Belknap, Webb & Tyler LLP as counsel. She practices in the areas of copyright, publishing, privacy and publicity, trademark, and trade dress counseling and litigation.

Jay M. Feinman '75, a leading scholar on contract and tort law and an expert on legal education, was named acting dean of Rutgers-Camden Law School on July 1 after Dean Roger Dennis was appointed provost of the Rutgers-Camden campus. Feinman will direct operations of the Camden law school, which has 774 students and 98 staff members. He was previously the associate dean for curriculum development and lawyering problems from 92 to 95.

Feinman received a B.A. in political science from American University in 1972 before earning his J.D. from the Law School in 1975. Prior to joining the Rutgers-Camden Law Faculty in 1977, he was a corporate lawyer at Dectcher Price & Rhoads. Feinman is the author of Economic Negligence (1995), a leading treatise on third-party litigation, as well as over 40 law review articles.

As associate dean for the Rutgers-Camden law school, Feinman helped to create the school's first in-house legal clinic, the Rutgers Civil Practice Clinic, which includes advocacy work on behalf of indigent elderly persons and children with special education needs.
IN MEMORIAM
The Law School Record notes with regret the deaths of:

Frank H. Detweiler '31

Frank Detweiler, a retired partner of Cravath, Swaine & Moore in New York and long-time supporter of the Law School, died on January 28, 1997. Mr. Detweiler was born on May 20, 1908 in Aurora, Illinois. He later attended Dartmouth College, and received his Ph.B. from the University of Chicago in 1929 and his J.D. in 1931. He served as a trustee of the Community Service Society of New York and as a Law School Visiting Committee member from 1968-1976. Mr. Detweiler was a member of the advisory board of the Edward E. Ford Foundation and a member of the distribution committee of the New York Community Trust.

Abraham A. Ribicoff '33

Abraham A. Ribicoff, a former U.S. senator and governor of Connecticut who served as secretary of health, education and welfare in the Kennedy administration, died on February 22. He was 87.

Ribicoff, a Democrat, had a public service career that spanned more than four decades. He began his career as a state legislator in the Connecticut General Assembly and went on to serve as a judge, a congressman, governor of Connecticut, a member of Kennedy's Cabinet, a member of the United States delegation to the United Nations and, for the last 18 years of his career, a U.S. senator.

As a senator, Ribicoff gained national prominence at the 1968 Democratic National Convention, when he made a blistering speech criticizing Chicago Mayor Richard J. Daley for the strong-arm tactics used to control protesters.

Ribicoff—born in New Britain, Conn., on April 9, 1910—began his political career in 1938, when he was elected to the Connecticut General Assembly as a representative from Hartford. He served two terms, and in 1942, was appointed a municipal judge in Hartford.

In 1948, Ribicoff was elected to the U.S. House of Representatives. He served two terms before running for the Senate in 1952. He lost that race by 29,000 votes to Prescott S. Bush, the father of former President George Bush.

Ribicoff was elected governor of Connecticut in 1954. He was elected to a second term in 1958, but resigned in 1961 to become a member of Kennedy's Cabinet as HEW secretary.

Ribicoff resigned the Cabinet post in 1962 to run for the Senate again. He won and was re-elected in 1968 and 1974. In the Senate, he was known for his support for automobile safety standards, Medicare, education and environmental regulations.

Elmer M. Heifetz '37

Elmer M. Heifetz, former president of a Chicago insurance company and long-time supporter of the Law School, died November 4.

Mr. Heifetz joined the Childs & Wood insurance agency in 1946 as an insurance broker, rising to president. Later he was associated with Rollins Hudig Hall of AON Corp., remaining with the company as an independent broker until his death. He is survived by his wife, Harriet.

Cameron Clark, Bigelow Fellow

Former Bigelow Teaching Fellow Cameron Clark, a litigating partner in the Manhattan-based law firm of Paul, Weiss, Rifkind, Wharton & Garrison for more than two decades, died on January 15. A native of Boston, Clark was a graduate of Harvard and the University of Minnesota Law School. Mr. Clark joined Paul Weiss in 1970 and became a partner in 1977. He founded the firm's European office in Paris in 1979 and remained a leader of its international practice and its pro bono practice after he returned to the New York office in 1984.

Friedrich Kessler, Professor of Law

Friedrich Kessler, a former professor at the Law School, Yale, and UC Berkeley's Boalt Hall died on January 21 in Berkeley, California. He was 96.

Born in Hechingen, Germany, Prof. Kessler received his law degree from the University of Berlin in 1928. He was a research member of the Kaiser Institute of Foreign and International Law in Berlin until 1934, when he and his wife, Eva, immigrated to the U.S. with the help of a Rockefeller Foundation Fellowship.

Though he spent most of his career at Yale, Professor Kessler taught at the Law School from 1938 to 1947. He was an authority on contracts, comparative law, and jurisprudence.
1927
The Hon. Robert L. Hunter
July 28, 1997
Lester Reinwald
June 9, 1997

1929
William H. Alexander
October 13, 1997
Benjamin I. Greenebaum, Jr.
November 12, 1996

1933
Robert H. O'Brien
October 6, 1997

1934
William E. Gray
February 10, 1997

1935
Charles B. Mahin
September 4, 1997

1937
Hon. Ivan L. Holt
April 7, 1997

1938
Phineas Indritz
October 15, 1997

1940
Hon. David Linn
August 5, 1997

1942
Robert B. Hummel
February 6, 1998
Hon. Willard J. Lassers
December 6, 1997

1949
LeMoine D. Stitt, Jr.
June 17, 1997

1951
Marshall L. Lowenstein
December 4, 1996
The Hon. Edward Nakamura
September 11, 1997

1955
Keith E. Fry
October 30, 1997

1959
Richard J. Schreiber
December 5, 1997

1964
William M. Lieber
November 5, 1997

1965
Merle W. Loper
December 27, 1996

1966
Raymond S. Osherhoff
May 6, 1997

1974
Yvonne P. Fonvielle
September 8, 1997

1979
Kathryn Smith Matkov
January 19, 1998

1984
Edward J. Lewis II
August 17, 1997.

following people tied the knot during summer and September: Tom Eggemeier, Shira Lefkowitz, Kim Covert, Kim Kamin, Mireya Castillo, Chapin Cimino, Michael Turbes, Jennifer Pohl, Christine Sarudy, Jen Kleynenberg, Joan Radovitch, and Dan Dominquez and Maureen (“Mo”) Titler.

I can share the details about some of the weddings. On June 14, 1997, Mireya Castillo married Doug Martin '95 at Adagio in Chicago. Attendees included Sonia Gupta, Alison Pollock, Emily Manove, Kim Covert (with then-fiancee Jim Cook), Joe Pietrzyk, and myself. Mireya and Doug enjoyed an Alaskan honeymoon in August and then returned to Chicago to work. On June 21, the same crowd traveled to Dayton, Ohio, to watch Kim Covert marry Dr. Jim Cook. Randee Waldman and Mary Ellen Callahan were also in attendance. Dr. and Mrs. Cook then drove directly to Washington, D.C., where Jim immediately began his residency and Kim began in the fall.

On August 9, at Rockefeller Chapel in Hyde Park, Dan Dominquez and Mo Titler were married. Lisa Monaco reports that the reception followed at the Drexel-Kenwood Mansion in Hyde Park. Attending from the Law School were Lisa, Miriam and Rob Hochman, Ryan Victor, Kim Kamin, Nandini Mani, and Jason and Jen Canel. The very next day Shira Lefkowitz married college sweetheart Shawn in Orlando, Florida. The two will be moving to California where Shawn is in graduate school at Stanford University.

So here it is: the first word on our class as official graduates of the Law School. Congratulations and a mutual sigh of relief to all those who completed the bar last summer. I saw many of you in Albany and everyone had that same look of shellshock when it was over. Until the next issue, I hope all is well with you and please, PLEASE write me with information about your lives!

John D. Wambold has become associated with the Minneapolis firm of Lindquist & Vennum PLLP. He is a member of the firm’s corporate law group, practicing in the areas of commercial and business law.
Images from Convocation 1997