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Chicago v. Chicago

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The New Dean

Daniel R. Fischel, who became the Law School's 11th dean in January, talks about his vision and ambitions for his alma mater during an interview with Michael Hershaft, a 1999 graduate who was voted most likely to become Dean of the Law School. Then, in his own words, Dean Fischel expands upon the spirit of entrepreneurship he is trying to foster at the Law School.

Chicago v. Chicago

With a large number of Chicago alumni and faculty involved in high-profile litigation, it's inevitable that they end up on opposite sides of the same case. A look at six headline-making cases that have Law School faculty, alumni—and deans—squared off with passion, innovation, and respect.

Women Advancing the Law and the Law School

Soia Mentschikoff, the Law School's first woman professor, personified the Law School's core values of rigorous scholarship and teaching in her time. Today, the number of women in leadership roles at the Law School has never been higher. The eight full-time women faculty and six deans bring a spectrum of expertise and leadership to the Law School and are true to Soia's example.

The Law School's First Hooding Ceremony

For the first time in its 97-year history, the Law School marked graduation with a hooding ceremony for the Class of 1999 in Rockefeller Memorial Chapel. The hood placed on the shoulders of each graduate represents the completion of the study of law and the entrance into a learned profession.
THE LAW SCHOOL'S ELEVENTH DEAN

BRINGS HIS VISION TO THE NEW CENTURY
DANIEL R. FISCHEL, the Lee and Brenda Freeman Professor of Law and Business, became the Law School’s 11th dean on January 1, 1999. An alumnus of the class of 1977, Dean Fischel’s career as a scholar, teacher, and entrepreneur embodies the Law School’s interdisciplinary tradition and shapes his vision for the School’s future. Dean Fischel first came to the Law School as a student in 1974, having just completed an M.A. in American history at Brown University. Classmate Lee Rosenthal, judge of the U.S. District Court for the Southern District of Texas, said that the key qualities Dean Fischel has demonstrated throughout his career were evident when he was a student.

"Dan had an incredible concreteness about him," Judge Rosenthal explained. "He is brilliant, creative, and imaginative, and he never loses sight of how the theoretical constructs relate to people, reality, time—real-life requirements. He never loses track of how his ideas will affect the day-to-day lives of everyone around him."

Judge Rosenthal said that Fischel’s eventual rise to the deanship would not have surprised her in the ’70s, when they were both students. "Dan was incredibly focused, hardworking, disciplined, and productive," she reports. "When he published his second comment in one year, I knew he was destined for something significant. I nicknamed him 'Two-Comment Fischel' or 'Two-Note Danny.'"

Upon graduation, Dean Fischel clerked for Thomas E. Fairchild, chief judge of the U.S. Court of Appeals for the Seventh Circuit, and then for Justice Potter Stewart of the U.S. Supreme Court. In 1980, he joined the faculty of the Northwestern University School of Law.

Dean Fischel returned to The University of Chicago as a visiting professor in 1982 and joined the faculty permanently in 1984. He has taught a variety of courses on corporate law and corporate finance. His publications include The Economic Structure of Corporate Law (1991) with Frank Easterbrook and Payback: The Conspiracy to Destroy Michael Milken and His Financial Revolution (1999). In a recent study, he was noted as one of the most cited legal scholars in history, in the same category as Louis Brandeis.

Howard Krane, ’57, immediate past chairman of The University of Chicago Board of Trustees, sees Fischel’s role at the University as extending far beyond law and economics. "Deen Fischel is clearly dedicated to the kind of quality education that is associated with The University of Chicago in general and the Law School in particular. This is evidenced by the fact that, when he was recently head of the recruiting committee, we had such a great hiring year. He is concerned with all of the constituencies of the Law School."

Former dean Gerhard Casper, now president of Stanford University, agrees. "Dan’s intellectual interests are broad-ranging and easily cross the Midway," he said. "Dan’s commitment to the Law School and The University of Chicago is not just loyalty but actually a deep sense of affection."

On the following pages, Dean Fischel communicates his vision through an interview with Michael Hershaft, ’99, and an essay on entrepreneurship. ☞
AN INTERVIEW WITH THE DEAN

By Michael Hershaft

Hershaft You have said that a primary motivation for becoming dean was because you wanted to give something back to the Law School.

Fischel My Law School education was the most exciting intellectual experience of my life, and after graduation the Law School created opportunities for me beyond what I ever imagined I could have. While I never expected to be dean, when the opportunity presented itself, it was an honor for me to accept the challenge.

Hershaft When you became dean, many people thought you had the perfect credentials because you are an alumnus, an academic, and have a business background in law and economics consulting, which is very rare for any professor.

Fischel My background as an alum and as an academic has given me a love for the Law School and a special appreciation of its greatness. My business background has given me a perspective on how to build an organization and relate to people outside the Law School. I also hope that my varied experiences will teach our students that they too can explore different opportunities and career paths after they graduate.

Hershaft There is a sense among students and faculty that you have a very strong vision of what you want to accomplish as dean. What are your goals?

Fischel I have tremendous respect for the Law School's past, its culture, and its generations of great students, teachers, and alumni. First and foremost, I want to preserve that tradition. But at the same time, we must plan for our future. We need to upgrade our physical plant, integrate technology and new areas of law into the curriculum, and continue our interdisciplinary tradition. Our students will have unparalleled opportunities in the next century, and we must prepare them for the challenges they will face.

Hershaft What new areas of the law do you see the curriculum expanding into?

Fischel We will have broader curricular offerings in every area next year, including technology, health care, international law, biblical law, gender studies, alternative dispute resolution, and entrepreneurship.

Hershaft Do you hope to expand the interdisciplinary theme that is so much a part of the Law School?

Fischel We are exploring new joint-degree programs with the public policy school and with the medical school. We are also expanding our links with other parts of the University, particularly the history department, the philosophy department, the divinity school, and the business school. We have launched a new interdisciplinary international curriculum, including a new workshop and journal on international affairs. We are in the process of starting a new program in health care policy.
Hershaft  Do you have plans to expand the clinical program?

Fischel  We are looking at moving the clinic into new areas. The clinic has always had a prominent role in criminal law, discrimination, and mental health. We are considering adding new programs in human rights, refugee law, and family law. I expect changes in the clinic to mirror what is happening in the rest of the Law School.

Hershaft  Last year you led one of the great faculty hiring raids of all time, and this year I understand that faculty from around the world want to come to the Law School to teach. What makes the Law School so attractive for academics?

Fischel  I think the primary attraction of this Law School is the incredible success that our faculty currently have and have always had in every measure of academic influence. In any ranking of faculty productivity, the Law School is without peer. Chicago is also a place where the entire faculty continuously interacts. We have no divisive factions. Also, Chicago is a wonderful city, the Lab School is a great resource, and Hyde Park and the communities around Hyde Park are booming. The combination is pretty hard to beat.

Hershaft  Our faculty is also very young. How has the Law School succeeded in producing generations of renowned young scholars?

Fischel  We try very hard to inculcate the culture of the institution across generations. Junior faculty members are treated the same as the most distinguished senior faculty members from the first day that they arrive. They have the same right to vote on all hiring and tenure decisions as the tenured faculty. We have no tradition of special deference to established scholars or famous people. The confidence and support that junior faculty get here gives them a sense that they are valued and respected, which I think brings out the best in people. This is one of the most distinctive and valuable characteristics of the School.

Hershaft  The Law School’s centennial is in 2002-2003. What are your plans for the centennial?

Fischel  We are planning a series of special events and publications to celebrate the Law School’s first 100 years. We have also begun a strategic planning process to plan for the Law School’s future.

Hershaft  Will alumni be involved in planning for the Law School’s future?

Fischel  Definitely. One of my goals as dean is to establish closer connections with our alumni base. As part of the strategic planning process, I have been meeting and speaking with alumni across the country and around the world. I have also invited a number of selected alumni to serve on committees in areas important to the Law School’s future.

Hershaft  Some deans have continued to teach; some have not. Will you continue to teach?

Fischel  Yes. The core mission of this institution is to teach and to learn. I look forward to continuing to be a participant in that process.

Hershaft  My classmates and I closely followed your highly publicized lawsuit, which resulted in your company, Lexecon, obtaining a $50-million settlement. Rumor has it that you and your partners intend to donate some of this money to the University and the Law School. Is that right?

Fischel  Yes. My partners and I agree that we owe much of the success in our careers to The University of Chicago. We look forward to giving back to the Law School and University by making a significant financial contribution.  

Michael Hershaft, ’99, was voted “most likely to become Dean of the Law School” by his 3L classmates.
CREATING ENTREPRENEURS

By Daniel R. Fischel

This article by Dean Daniel Fischel describes one area of curricular development that is currently being explored by a special strategic planning group of faculty, staff, and alumni.

Last May, Sylvia Neil, our new Associate Dean for External Affairs and Planning, and I had dinner with Colonel Robert Reid, '30, and his wife Bette at the University Club in Washington, D.C. It was a special evening. We discussed everything from Bette's accomplishments in art and music to Colonel Reid's upbringing in central Illinois. But most of all, we discussed the Law School and how it changed our lives. Colonel Reid spoke at length of the high-quality education he received at the Law School 70 years ago, and how this training enabled him to be both a successful lawyer and an innovative entrepreneur who became a major investor in the Federal National Mortgage Association after he transformed it from a government agency to a private business.

Listening to Colonel Reid, I was struck by the similarities in our careers and the careers of many other Law School graduates who have distinguished themselves as entrepreneurs. In my case, I became an academic specializing in corporate law and finance and helped build Lexecon, Inc., an economics consulting firm founded in 1978 by three individuals from the Law School (Richard Posner, now Chief Judge of the Seventh Circuit Court of Appeals; Professor William Landes; and Andrew Rosenfield, '78). Other Law School graduates have become prominent business leaders, investment bankers, financiers, real-estate developers, and deal-making specialists. Still others have launched high-technology ventures and other businesses.

We can justly be proud of our tradition of producing successful entrepreneurs. But now we must adapt this tradition to the future. The legal profession has changed dramatically in the past 20 years, and there is every indication that these changes will continue. These changes—mergers, split-offs, greater mobility and turnover, the high-tech revolution, multidisciplinary practice, and globalization—have been disruptive, but they also create opportunity. Our students will be best prepared to seize these opportunities if they think more like entrepreneurs.

Entrepreneurial skill is most directly valuable for the increasing numbers of our students who will spend all or part of their careers in business rather than practicing law. But it is also valuable for our students who choose careers in private practice, the government, public interest, or academia. Entrepreneurship requires the ability to identify and develop a valuable idea, communicate it effectively to others, make the appropriate risk/return trade-offs, and then do whatever is necessary to make the idea a reality. The chances for success in any career path are enhanced by the ability to perform these tasks.

I believe the Law School is uniquely positioned to train entrepreneurs. Since its creation in 1902, the Law School has emphasized the importance of creative and independent thought, problem solving, writing proficiency, oral advocacy, and the interdisciplinary approach to the acquisition of knowledge. These skills—the skills necessary for entrepreneurship—last a lifetime and have value long after many of the specifics have been forgotten. Having acquired these skills, our students have unlimited career options.

We have now begun a strategic planning process in anticipation of the Law School's centennial in 2002-2003. To assist us in planning for the Law School's future, I have asked a number of select alumni and
friends to serve on various committees in areas important to the Law School’s future, such as entrepreneurship. The enthusiastic response I have received to my invitations to serve on these committees has been one of my most gratifying experiences as dean. The entrepreneurship group is no exception. Many ideas are being generated and discussed, including the creation of a proposed Center on International Entrepreneurship to equip our students for the emerging world economy that they will enter upon graduation.

Much is already being done. This year, for example, our students can take courses such as Structuring Venture Capital and Entrepreneurial Transactions (one of the most popular courses in the Law School), Business Planning, Entrepreneurship, and the Law, and an Entrepreneurship Seminar, where students will have the opportunity to interact with and learn from successful entrepreneurs. In New Venture Challenge, a new course taught in the Business School, law students and business students combine to create business plans complete with financial projections for entrepreneurial ventures. Students are judged on the commercial potential and feasibility of their idea, coupled with the credibility of their projections and assumptions. We have also added to our course offerings in areas such as electronic commerce and the Internet, biotechnology, intellectual property, derivatives, international trade, finance, and health care.

Our new Institute for Justice Clinic on Entrepreneurship, commonly known as the IJ Clinic, offers our students additional opportunities to learn about entrepreneurship. The IJ Clinic provides fledgling entrepreneurs with free legal services in connection with business formation, licensing, securing permits, contract, lease and lender negotiations, and tax and regulatory compliance. By connecting interested students with inner-city entrepreneurs with limited resources and little or no access to private legal counsel, the IJ simultaneously provides a stimulating learning experience and assists individuals interested in starting businesses in inner-city Chicago. Our students, and the entrepreneurs they represent, are the beneficiaries.

We have also upgraded our Office of Career Services. We have created and filled a new position, Associate Director for Career Counseling and Non-Traditional Career Development, to assist students and graduates interested in pursuing entrepreneurial opportunities both within and outside of the practice of law. With an enhanced professional staff, we are better able to provide individualized career counseling as well as interest more non-traditional employers of all types (i.e., investment banks, consulting and accounting firms, public-interest firms, and other nonprofits) to recruit at the Law School. Student interest in non-traditional employers has been great, and we expect this interest to continue to grow.

These steps, however, are only the beginning.

The Law School has a great tradition of producing entrepreneurs like Colonel Reid. We must continue to expand that tradition so that all of our students, whatever their career choice, are best equipped to face the challenges of the future. As we enter the 21st century, we must ensure that the Law School will be the leader in attracting, training, and placing entrepreneurs. Working together, we can make this goal a reality.
It’s not unusual to find alumni and faculty of the Law School figuring prominently in cases that unsettle precedent, fire policy debate, and advance new lines of legal analysis. In fact, professors and alumni from Chicago often find themselves arguing opposite sides of a case, shaping the law by considering all sides of an issue. In the recent headline-making cases profiled in this article, alumni, faculty, and deans squared off against one another as they sought to change the law.
**Case #1:** Faculty members took increasingly forceful positions regarding the proper application of various constitutional provisions to the City of Chicago's anti-gang loitering ordinance. Amicus briefs were written, articles were published and rebutted, and intense debate resounded on campus.

**Case #2:** The stunning investment losses and subsequent bankruptcy of California's Orange County brought graduates, a dean, and a faculty member into the fray as the county sued its investment advisors for billions of dollars.

**Case #3:** Two graduates, a faculty member, and a prominent former faculty member argued the constitutionality of same-sex marriage before Vermont's highest court. The *New York Times* declared the case to be "the central arena in the United States for the push for marriage between people of the same sex."

**Case #4:** Everybody seemed to get into the act as lawyers disputed the pros and cons of a long-contested issue in bankruptcy law all the way to the Supreme Court. Not only was a University of Chicago graduate a partner in the bankrupt real estate venture, and not only were many University of Chicago grads among the tenants of the bankrupt property in question—three faculty members, one of them a former Law School dean, participated in the case in a variety of conventional and less conventional roles.

These four cases manifest a diversity of subject matter and viewpoints, ranging from the economics-based legal arguments for which the Law School is perhaps best known to challenges to long-established constitutional doctrine and government policies. "The common link in all these cases," said Dean Daniel Fischel, "is that the people on all sides are creative, they're innovative, they're bold. They're the people others seek out in high-profile, cutting-edge cases. It is symptomatic of what a Chicago education produces—people who are able to think clearly and creatively and communicate their insights effectively in uncharted territory."
From the time that Chicago’s anti-gang loitering law was adopted in 1992 until it was struck down by the Illinois Appellate Court in 1995 as facially unconstitutional, upwards of 42,000 people were arrested under its provisions. Their offense consisted of being in a group of two or more people, one of whom was “reasonably believed” by a police officer to be a gang member, loitering “with no apparent purpose,” and then failing to disperse after being instructed to do so by a police officer.

The law, officially called the Gang Congregation Ordinance, was one strategy Chicago devised to combat the ugly effects of gangs in mainly poor, minority communities, where crime, violence, and a degradation of community life can largely be traced to gangs’ malignant influence.

Professor Tracey Meares, ’91, joined by former Chicago professor Dan Kahan, defended the constitutionality of the ordinance as a constructive community-based response to the problem of street crime.

University of Chicago law professors Stephen Schulhofer and Albert Alschuler, on the other hand, opposed the ordinance as giving too much discretion to the police, leaving the way open for violations of civil liberties. The battle then proceeded to the courts, where both sets of professors filed amicus briefs, and it continued in the law reviews and the popular press.

The Illinois Appellate Court initially struck down the law, noting that it “smacks of a police-state tactic.” The Illinois Supreme Court unanimously affirmed the Appellate Court’s decision in 1997, writing, “Such laws, arbitrarily aimed at persons based merely on the suspicion that they may commit some future crime, are arbitrary and likely to be enforced in a discriminatory manner.”

When the case proceeded to the U.S. Supreme Court, Professor Randolph Stone, Director of the Law School’s Mandel Legal Aid Clinic, joined the fray by filing an amicus brief attacking the ordinance.

In June of this year, the Supreme Court affirmed the decision of the Illinois Supreme Court, with dissents from Chief Justice Rehnquist, Justice Thomas, and Justice Scalia. Announcing the Court’s judgment, Justice Stevens observed, “It matters not whether the reason that a gang member and his father, for example, might loiter near Wrigley Field is to rob an unsuspecting fan or just to get a glimpse of Sammy Sosa leaving the ballpark” (City of Chicago v. Morales et al, No. 97-1121).

Dissenting, Justice Thomas argued that the justices should not be blind to the problems the ordinance tried to attack: “By invalidating Chicago’s ordinance, I fear that the Court has unnecessarily sentenced law-abiding citizens to lives of terror and misery.”

Although the Court has handed down its decision agreeing with Schulhofer and Alschuler, the public policy debate is far from over. Meares and Kahan called the reasoning behind the high court’s decision “symptomatic of a jurisprudence that has outlived its own political and social presuppositions.”
They continue to advocate that law enforcers be granted more leeway than courts have previously allowed, provided that there are safeguards to protect against abuse of that discretion. Requiring "hyper-specific" rules to guard against misused discretion is an anachronistic attempt to protect minority citizens, they argue, one that disregards contemporary reality: The two sides continue to dispute both the proper resolution of this specific case and the appropriate guiding constitutional perspective.

Looking ahead, Meares believes that the intensity of this discourse will help lead to a better constitutional doctrine. "I think what needs to be emphasized is the complexity of the situation," she said. "There are no easy answers. A changing situation is not going to be easily accommodated by either law enforcement as usual or constitutional analysis as we usually have thought about it—that's what made this case so interesting."

"There's no question that they could write something that would be constitutional. I wish they had done that seven years ago."

Stephen Schulhofer

Meares also believes that the law could be rewritten to make it constitutional by including administrative safeguards ensuring that police would enforce the law only to prevent intimidating displays of gang authority. "My belief is that the city ought to be involved in coming up with innovative ways to help communities control crime without communities having to incur the cost of very harsh law enforcement," she said.

Reflecting back on the troubled history of the ordinance, Schulhofer agrees that it could readily be redrafted to pass constitutional muster. "There's no question that they could write something that would be constitutional," he says. "I wish they had done that seven years ago."

Though [the court's] anxiety about the predictable response of law enforcers to a vague ordinance made sense thirty years ago, that anxiety is less sensible now that law enforcers in America's big cities are accountable to political establishments that more fairly represent African Americans. Uncompromising hostility to discretion is therefore inappropriate because it interferes with the lines of political accountability that are now being established between minorities and the elected branches of government at the municipal level.

Schulhofer and Alschuler take the opposite tack, advocating "the need for citizens and courts to be on guard against the appealing but highly manipulable rhetoric of 'community,' a rhetoric that is increasingly prevalent in contemporary discourse." Schulhofer and Alschuler warn, "Far from serving the needs of the disadvantaged, the concept of community can, in the wrong hands, become another weapon for perpetuating the disempowerment and discrimination that continue to haunt urban America."
A rising tide may lift all boats, but Orange County, California, and some 200 participants in its investment pool learned what happens when everything rushes down the drain. Swamped by over a billion and a half dollars in 1994 losses from trading in complex debt instruments, the county declared bankruptcy; its treasurer and assistant treasurer pleaded guilty to multiple felony counts of securities fraud and misrepresentation, and investment pool members experienced the perils of inverse floats.

The county and the other pool participants hired as lead counsel James Mercer, '71, and his law partner, J. Michael Hennigan, of the Los Angeles firm Hennigan Mercer & Bennett. They brought suit for $2 billion against

Merrill Lynch & Co., the county's principal financial advisor, for selling "illegal and improper" securities to the county. A score of other investment banks, auditors, and advisors were targeted for future legal claims.

Mercer quickly learned that he was working in unprecedented legal territory. "There were no obvious answers to any of the legal problems we confronted," he explains. "We had to examine virtually every area of state and federal law concerning governmental borrowing, investment, and budgetary powers, as well as securities regulations, trust law, and other areas too numerous to mention."

Two factors made matters even more difficult. First, Mercer's principal witness, the county treasurer, had some potential credibility problems even beyond his felony convictions, after it was widely reported that he consulted an astrologer while making his investment decisions. Second, Mercer was facing a formidable battery of high-powered expert witnesses hired by the defense, including current Law School Dean Daniel Fischel, ’77, and Nobel Prize-winning University of

"I think the world of Jim Mercer. Jim always does an incredibly good job, and that was particularly true in this case, because Orange County, in my opinion, had a very difficult road ahead of them to prove their case."

Daniel Fischel
that was particularly true in this case, because Orange County, in my opinion, had a very difficult road ahead of them to prove their case." The sincerity of Fischel's praise is evidenced by his invitation to Mercer to chair the Law School Visiting Committee, which Mercer agreed to do beginning this fall.

Mercer offered two theories in support of the county's claim. First, under both the California constitution and state law, governmental entities were precluded from making such speculative investments. Under this argument, Mercer said, the investments at issue in the case should be considered void. Secondly, even assuming arguendo that such investments were permissible, the specific securities that Merrill Lynch and other defendants advised Orange County to buy were inappropriate. For the defense, Fischel and Miller contended that it was the county's mismanagement of its investments, not the nature of those investments themselves, that caused its financial problems. Had Orange County officials waited for an appropriate time to sell, they wouldn't have lost any money at all, the two experts said. "They suffered losses on some trades, but they weren't bankruptcy," Fischel still insists. "Bankruptcy was just a political ploy."

"I have enormous respect for Dan," Mercer counters. "He's thorough, he's thoughtful, he's reasoned. And sometimes he's wrong."

In this case, Mercer added with a smile, the position taken by Fischel and Miller was "basically preposterous—based on facts that don't fit reality."

Well might he smile. Last year, Merrill Lynch settled the county's suit before trial for $400 million, a figure that surprised many legal experts and Wall Streeters. Soon thereafter, Morgan Stanley Dean Witter and Nomura Securities settled with the county for $116 million, and it was not long before additional settlements were reached, bringing the county's total recovery to $860.7 million.

The last and by far the smallest settlement—$40,000, prompting the headline "S&P Settles for a Song" in a trade magazine—was achieved by Standard & Poor's. Kenneth Vittor, '77, general counsel for The McGraw-Hill Companies, represented Standard & Poor's in the settlement negotiations. S&P was assisted by Professor Randal Picker, '85, who was hired as an expert in the case.

Orange County's bankruptcy still stands as the largest by a government agency in American history. The bankruptcy frightened governments from coast to coast into reexamining their fiscal and investment practices; it cost the defendants many millions in lost fees and even criminal settlements; it changed the practices of affected and unaffected organizations. Standard & Poor's, for instance, said through general counsel Vittor that it will explicitly state in future contracts that it is not a financial advisor, that it is not waiving its First Amendment rights, and that its ratings constitute opinions protected by the First Amendment.
Three same-sex couples in Vermont, denied marriage licenses, sued the state and the municipalities that had turned them away. In a case that made its way to the state's supreme court last November, Beth Robinson, '89, represented the plaintiffs, while Eve Jacobs-Carnahan, '86, argued for the state. The court had not yet issued its decision as this magazine went to press (Baker v. State of Vermont, No. 98-32).

The New York Times reported that the case established Vermont as "the central arena in the United States for the push for marriage between people of the same sex."

A ruling favorable to the appellants would make Vermont the only state to permit marriage between gay or lesbian couples. A court in Hawaii had ordered that state to recognize such unions, but Hawaii's citizens then passed a referendum banning them. Under similar circumstances, voters in Alaska also chose to outlaw same-sex marriage. Californians will vote next year on a referendum proposing that marriage be defined solely as a union between a man and a woman. In all, nearly 30 states have enacted bans on same-sex marriage.

At the national level, the 1996 Defense of Marriage Act defines marriage as "only a legal union between one man and one woman." It thereby prospectively denies federal benefits to persons in same-sex marriages, should any state elect to allow such marriages, and it permits states to refuse legal recognition to same-sex marriages endorsed in other states. It also permits the lawful application of the term "spouse" only to "a person of the opposite sex who is a husband or a wife."

Married persons in Vermont enjoy more than 150 state supports and protections—and incur many responsibilities—that are withheld from same-sex couples. The number of federal supports and responsibilities related to marriage exceeds one thousand, Robinson says. The benefits affect, among other things, insurance coverage, medical treatment, pensions, property ownership, and inheritance.

Robinson cites one of her clients, Stacy Jolles, who was blocked from entering a hospital emergency room to visit her critically ill partner, Nina Beck, because they had no legal relationship. Jolles and Beck have a two-year-old son, who Beck says "needs and deserves to know that his parents have a legal connection to one another, as well as to him."

The plaintiffs' case centers on the common benefits clause of Vermont's constitution. Robinson describes that clause as "Equal Protection-like," adding, "It has been interpreted to be a bit more protective of the rights of disadvantaged people than the Equal Protection clause."

In an interesting twist, Professor and Deputy Dean Elizabeth Garrett, and former judge, congressman, and faculty member Abner Mikva, '51, along with others have submitted an amicus brief supporting the plaintiffs—but for different reasons. Garrett and Mikva argue that the court should rule for plaintiffs on statutory grounds and can avoid ruling on the constitutional issue.

Jacobs-Carnahan counters that while Vermont is indeed a "very liberal state," with broad legislative prohibitions against discrimination based on sexual orientation and a hate crimes law that includes gay and lesbian persons within its protections, the absence of legislation allowing same-sex marriage reflects an intentional decision by the legislature to restrict marriage to partners of opposite genders.

Moreover, she says that because same-sex marriage is an emerging area of social policy, courts must not declare it off limits to legislative policy-makers. The state's brief cites Justice Souter's comments in Washington v. Glucksberg (No. 96-110), an assisted-suicide case:
Legislatures . . . have superior opportunities to obtain the facts necessary for a judgment. . . . Not only do they have more flexible mechanisms for fact-finding than the Judiciary, but their mechanisms include the power to experiment, moving forward and pulling back as facts emerge within their own jurisdictions.

Jacobs-Carnahan insists, "For a lot of reasons, the court can't just step in and say, 'We don't like the statute.' In a situation like this, that's just not enough reason for the court to override what the legislature has done."

Both sides have relied heavily on federal constitutional cases in their arguments. Robinson drew parallels to the historic 1948 California Supreme Court decision overturning that state's prohibition of interracial marriage, noting that 40 states at that time banned such marriages, with six including the ban in their state constitutions. Comparing popular hostility toward interracial marriage then to disapproval of same-sex marriage today, she urged the Vermont court to make a similarly "controversial, courageous, and correct" decision in the case before it.

"The basic issue here," she said in an interview, "is whether the Constitution applies to all citizens or just to those whom the majority might decide it applies to."

Jacobs-Carnahan maintained that only a rational basis standard should be applied in this case, since, among other things, heightened scrutiny is not applied to claims of discrimination based on sexual orientation. In that context, the state's interest in promoting stability in sexual and procreative relations meets the test of plausibility, she told the court.

Both women say that despite the deep feelings regarding this case, they had no problem getting along, helped by the collegial atmosphere of Vermont practice and the mutual respect engendered by their shared University of Chicago Law School background. The New York Times even noted, "there was not a hint of nastiness between the partisans."

The women said they shared a chuckle when it turned out that both were drawing on their Law School experience with Professor Cass Sunstein, even citing law review articles by him in their respective briefs.

"We definitely had the best of that one," Jacobs-Carnahan recounts with a smile. "Our articles were more recent than theirs, so we said we were endorsed by a more mature and reflective Sunstein than they were." It turned out that Jacobs-Carnahan's co-counsel had also studied under Sunstein when Sunstein was a visiting professor at Columbia.

The case has attracted more attention than either of the women could recall witnessing before. Robinson, a partner in the Middlebury office of Langrock Sperry & Wool, has practiced in Vermont for six and a half years, and Jacobs-Carnahan has been in the attorney general's office for nine years. Lines for tickets to the supreme court arguments began forming on the snow-covered courthouse steps at 5 a.m., and the hearing was videotaped for subsequent broadcast.

Jacobs-Carnahan says the procedural posture of the case makes it possible that the court will not decide the merits of the plaintiffs' argument. "It's up there right now on a motion to dismiss a complaint that we have never even answered," she said, "so the court might simply remand the case back to the trial court if it doesn't dismiss it entirely."

"A remand would be a win for us," Robinson said. "It would say that we have a constitutional claim, even if there were still facts we'd have to prove to satisfy that claim."

Whatever the court may decide, Vermont will likely continue to be a bellwether regarding same-sex marriage. Both Jacobs-Carnahan and Robinson expect that the losing side will seek a state referendum to overturn the decision.

Interest in the case and its implications is pronounced within the Law School, too. In October, 12 legal scholars participated in a well-attended symposium on same-sex marriage sponsored by The University of Chicago Law School Roundtable.

\[\text{It turned out that both attorneys were drawing on their Law School experience with Professor Cass Sunstein, even citing law review articles by him in their respective briefs.}\]
A central issue in bankruptcy law—the balance of power between debtors and creditors—was at issue in *Bank of America National Trust and Savings Association v. 203 North LaSalle Street Partnership* (No. 97-1418). When the case was heard by the U.S. Supreme Court earlier this year, University of Chicago law professors Douglas Baird, Eric Posner, and David Strauss played substantial roles.

Former Law School Dean Baird set aside his general aversion to involvement in litigation to assist the debtor in preparing its case. A principal motivating factor for doing so, he said, was that "the whole dynamics of reorganization turn around who can participate and who sits around the bargaining table, and this case is at the absolute center of that. This is a big, big case."

Posner agreed that the case was important but took the opposite side. He, along with other law professors, submitted an amicus brief siding with the creditor's position in the case.

After its first reorganization plan was rejected, the debtor filed a new plan built on a provision that certain of its former limited partners would contribute new capital with a present value of about $4.1 million over a five-year period, in return for which those partners would obtain full ownership of the reorganized debtor. The old equity holders had the exclusive right under the plan to contribute new capital.

"For me, the case represented an opportunity to convince the Court that questions of statutory construction frequently cannot be answered by looking at the words of the statute alone. The larger context and statutory purpose must also be explored."

David Strauss

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Case #4
When the bank, which would not be paid in full under the debtor's new plan, objected to the plan, negotiations stalled. The stymied debtor proposed a "cramdown"—that is, the imposition of its reorganization plan despite its rejection by an impaired class of creditors. The bank objected, arguing that since former equity holders, who had only a junior claim, would receive property under the plan while the bank would not be paid in full, the absolute priority rule (the rule that senior creditors must be paid in full before junior creditors are paid) was transgressed and the cramdown should not be permitted.

The debtor responded that the $4.1 million in new investment constituted "new value" that should earn the debtor an exception from the absolute priority rule, under the "new value exception." The new value exception is not addressed directly in the 1978 Bankruptcy Code and it never has been explicitly affirmed by the Supreme Court, although it is present as dicta in a 1939 opinion, \textit{Car v. Los Angeles Lumber Products Co.}

The bankruptcy court accepted the debtor's new value argument over Bank of America's objection and allowed the cramdown of the new plan. The District Court and the Seventh Circuit Court of Appeals affirmed the bankruptcy court's decision. Because two Circuit Courts have allowed "new value" plans that otherwise would have fallen to the absolute priority rule, furthermore, he had the opportunity to collaborate with fellow faculty member David Strauss, also retained by the debtor, whom Baird characterized as both "a treat to work with" and "one of the best lawyers ever."

For Strauss, the case has important implications that extend far beyond bankruptcy. "For me, the case represented an opportunity to convince the Court that questions of statutory construction frequently cannot be answered by looking at the words of the statute alone. The larger context and statutory purpose must also be explored."

The Supreme Court's ruling disappointed those who had hoped it would settle the status of the new value exception. The Court reversed and remanded the case, but did not definitely resolve the question of whether or not a new value exception exists in bankruptcy. Such ambiguous results sometimes occur in litigation. As Baird noted, expressing the view of most commentators, "It's not obvious from the opinion who won. The meaning of the case will be debated for a long time to come."

\textbf{"It's not obvious from the opinion who won. The meaning of the case will be debated for a long time to come."} \hspace{1cm} \textit{Douglas Baird}
LaSalle, they “didn’t even blink,” even though such opposition might have been a political faux pas at another law school. Baird, who was Law School dean at that time, says “it never even occurred to anyone to ask the question” of whether there might be political repercussions for taking opposing sides in a major case.

For Dean Fischel, rigorous debate remains one of the central aspects of a legal education and of the intellectual life at the Law School.

MORE MEETINGS OF CHICAGO MINDS

It’s not only as opposing counsel, nor is it only in the courtroom, that University of Chicago folk encounter each other in news-making cases.

University of Chicago alumni may find themselves facing distinguished jurists with University of Chicago ties, as George Saunders, ’69, did when he argued the same case twice before Seventh Circuit Court of Appeals panels that included University of Chicago professors Chief Judge Richard Posner, Judge Frank Easterbrook, and Judge Diane Wood.

Or, they may find themselves in the position of Edward Warren, ’69, a lecturer at the Law School, who joined Professor Cass Sunstein at a symposium dedicated to discussing Warren’s recent victory in a nationally publicized challenge to the regulatory practices of the Environmental Protection Agency. The symposium was sponsored by the prestigious AEI-Brookings Joint Center for Regulatory Studies and was convened by Christopher DeMuth, ’73, President of the American Enterprise Institute.

Saunders, a name partner in the Chicago firm Saunders & Monroe, represents a class of more than 40,000 pharmacies in a case alleging that prescription drug manufacturers and drug wholesalers unlawfully charge pharmacies more than they charge such other big customers as hospitals, nursing homes, and health maintenance organizations.

The case, In re Brand Name Prescription Drug Litigation (No. 99-1167), is big and complex. Settlements exceeding $800 million have already been reached, and more than 100 lawyers have participated. It hinges on the high-powered economic analysis for which the Law School is renowned. As Saunders says, “When you get into big cases involving economics, you’re going to find University of Chicago people, because that’s an area where the Law School excels.”
In July of this year, the Seventh Circuit panel that included Posner and Easterbrook remanded the case to the District Court that is handling the unified claims. On remand, Saunders will have the opportunity to prove that certain of the manufacturers colluded to artificially peg prices to increases in the consumer price index, and that his clients were financially damaged by that anticompetitive behavior.

Saunders says the wisdom and economic understanding of jurists such as Posner, Easterbrook, and Wood elevate the experience of practicing law: "This is a fabulous court. You always have the sense that you have had your day in court, and ultimately that's what the law is all about."

It was on May 14 of this year that the D.C. Circuit Court of Appeals ruled for Edward Warren's client in American Trucking Associations, Inc. v. EPA (Nos. 97-1440 and 97-1441 and consolidated cases). Less than two weeks later, he found himself revisiting that case with Sunstein, EPA head Carol Browner, former White House counsel C. Boyden Gray, and other luminaries at a high-profile symposium organized by DeMuth.

Warren, a partner at Kirkland & Ellis in Washington, D.C., convinced the court that EPA went too far with its regulation revising national ambient air quality standards for ozone and particulate matter. Among other things, Warren had maintained that EPA "had no intelligible stopping point" in its standard-setting process. The court agreed, saying that EPA seemed to feel "free to pick any point between zero and a hair below the concentrations yielding London's Killer Fog" (which caused 4,000 deaths in one week in 1952).

The ruling was driven by the "non-delegation doctrine." It was the Legislative Branch that enacted the Clean Air Act under which the regulations are developed, but EPA is an Executive Branch agency. So when EPA made unexplained policy judgments in its rulemaking, it was arguably usurping the constitutional provision that "all legislative powers" belong to Congress.

Warren says, "The best evidence that EPA had no intelligible stopping point for setting those standards is its treatment of the disbenefits of ozone reduction. Under the plain language of the statute, EPA must consider the negative health effects of reducing tropospheric ozone, but it just plain ignored them." Since ozone has been shown to help prevent cataracts and skin cancer by screening ultraviolet radiation, Warren contended that the small health benefits from reducing ozone emissions might actually be outweighed by the harm done by that reduction. In any event, Warren told the court, such factors had to be considered, and EPA did not do so.

The court agreed, writing, "[It] seems bizarre that a statute intended to improve human health would . . . lock the agency into looking at only one half of a substance's health effects in determining the maximum level for that substance." EPA was directed to consider all the identifiable health effects of ozone and then create a standard that would result in a net benefit to human health.

In convening the symposium, DeMuth stated that the court's ruling "could have enormous implications for regulation and the delegation of powers from Congress to federal agencies." Sunstein faulted the court for its expectation that EPA, rather than the Congress, should provide the basis for setting air quality standards. "The main problem with the Clean Air Act is its assumption that a threshold for safety exists for all pollutants. That is often a myth, and therefore the EPA must make some judgment about how safe is safe, for which the statute provides little guidance."

The ruling, Sunstein said, went beyond previous doctrine because it "commands agencies to develop the means to measure 'a generic unit of harm.'" "That is dramatic," he added. "because Congress and the courts have not required the EPA to use that type of measure before."

EPA's rule-making process is one thing that likely will be studied at the Law School's new Center on Civil Justice, which Sunstein founded and codirects with Professor Lisa Bernstein. The general purpose of the Center, according to Sunstein, is to generate "a lot more hard knowledge of how the legal system actually functions, so that we can improve it." Among the research already undertaken at the Center is a study of EPA's courtroom win-loss record during different presidential administrations.
Solie Meotschikoff, the first woman professor at the Law School, made an impact on the students she taught from 1931 to 1974. Her portrait, by James Ingwerson, hangs in the James Parker Hall Concourse outside of the Bernard G. Sinsg Lecture Hall.
Women Advancing the Law and the Law School

Alumni from the classes of 1951 to 1974 often recall the anxiety they felt when Soia Mentschikoff called on them for the first time—as well as the pride they experienced when they successfully completed her course. To so many, Soia personified the Law School’s core values of rigorous scholarship and teaching. She was the rare woman of her day who was able to overcome society’s significant obstacles to achieve unquestioned leadership in the law and the Law School.

Today, the number of women in leadership roles at the Law School has never been higher. Women are eight of the Law School’s 28 tenured or tenure-track professors and six of its eight deans. The committee handling this year’s tenure decision is composed entirely of women. Eighteen women hold positions as visitors, lecturers, adjuncts, and clinical faculty. As Dean Daniel Fischel observed, “The women at the Law School today are true to Soia’s example. They are experts in their respective fields who are doing work of extraordinarily high quality.”

Judith Wright, Associate Dean and Director of Library and Information Services, was first hired at the Law School as a documents librarian in 1970. “When I first came here, Soia Mentschikoff was on the faculty, and that made an enormous difference to the women students,” Wright said.

“Mentschikoff was a vibrant person who could fill the shoes of several people and, perhaps, made more of a difference than any one other woman could have.” Ellen Cosgrove, ’91, Dean of Students, notes that today, “with eight women on the faculty, the students cannot easily pigeonhole what a female faculty member is.”

In 1998, the Law School hired eight “superstar academics” in what The National Law Journal called “the second greatest law school faculty raid of all time—if not the greatest” (comparing our recent hiring coup to Stanford’s historic one in the 1960s). In doing so, the Law School gained Professors Lisa Bernstein, Jill Hasday, and Julie Roin. This year, Mary Anne Case joins these three newcomers and the four women already on the academic faculty—Martha Nussbaum, Elizabeth Garrett, Tracey Meares, and Emily Buss.

The spectrum of expertise demonstrated by the women on the faculty—both individually and collectively—carries forward the Law School’s traditional commitment to interdisciplinary study. Bernstein and Roin are taking law and economics in new directions. Case, Hasday, and Visiting
Professor Catharine MacKinnon bring gender and sexuality issues to the center of legal theory and legal history. Meares is a pioneer in the emerging field of law and social science. Nussbaum uses the classics to raise questions about the role of law in society. Garrett is bringing the legislative process to the fore in legal studies and legal education. Buss uses psychology to better understand the place of children in the legal system. Each woman's work breaks new ground, in the best University of Chicago tradition.

Similarly, the women in the administration integrate their experiences in law firms, government, libraries, investment banking, and public policy advocacy to advance the quality of education that the Law School provides. Deans Alison Cooper, Ellen Cosgrove, Elizabeth Garrett, Sylvia Neil, Jennifer Sacon, and Judith Wright draw on the best practices of the legal, corporate, and not-for-profit worlds to help the Law School remain a leader in legal education and scholarship.

**Lisa Bernstein** is widely regarded as one of the most important law and economics and commercial law scholars to enter the field in years. Bernstein's work challenges prevailing empirical and theoretical assumptions about commercial law. Her method, she explains, is to go out and gather "empirical evidence about how merchant transactions are actually conducted." Professor Douglas Baird describes Bernstein as the "intellectual heir to Karl Llewellyn and Soia Mentschikoff," saying that she "embraces what Karl Llewellyn calls 'the law in action,' and does it in a way that is really exciting."

Bernstein is best known for studying industries that have opted out of the legal system, choosing instead to set up their own private legal systems, complete with arbitration tribunals that operate under detailed procedural rules and that interpret and apply their own commercial law statutes. In her studies of diamond traders in New York, grain and feed merchants, hay traders, silk traders, textile merchants, and cotton traders, she challenges the empirical assumptions that have long been the basis of modern commercial law. Her studies suggest that commercial laws that were "designed to be flexible and to promote long-term relations have the opposite effect instead."

**Jill Hasday**, who graduated from Yale Law School in 1997, has already carved out a national reputation for her writing on family law and federal jurisdiction. She is currently completing a legal history of marital rape, in which she uses the record of the 19th-century struggle over a husband's conjugal prerogatives to help explain why a majority of states still retain some form of a marital rape exemption.

"History tends not to be normative. It's descriptive," Hasday said. "Legal writing tends to be prescriptive and normative. I'm trying to bridge that gap. The idea is to do a legitimate account of the history of marital rape—one that a historian would accept—but to still make an argument about what the law should be doing."
Hasday's teaching interests include anti-discrimination law, constitutional law, national security law, and legal history, as well as family law. Before coming to the Law School, she clerked for Judge Patricia M. Wald of the United States Court of Appeals for the D.C. Circuit.

**Julie Roin** is a leading authority on international taxation. Like Bernstein, she sees her approach as consistent with the School's law and economics tradition.

"Tax is about economics," Roin said. "It's about people shelling out money to the government and changing their behavior in response to being told they have to shell out money to the government. One of the things we do in tax policy is to think about ways that we might change the law to get the revenues we want without encouraging undesirable behavior."

Roin practiced tax law as an associate with Caplin & Drysdale, a firm in Washington, D.C., before becoming a professor. Her husband, Saul Levmore, who also joined the Law School faculty last year, was teaching at the University of Virginia School of Law in Charlottesville when she made the decision to pursue a teaching career. After a year as a commuter couple, Roin explained, they wanted to live in the same place.

"We wanted to see if I would enjoy academia," Roin said. "I did—and was successful enough to receive a tenured offer from The University of Chicago." Personal convenience brought unexpected professional benefits. "What we did not fully appreciate at the time," she remarked, "was the intellectual synergy that would come from our working in the same field."

**Mary Anne Case**, according to Dean Fischel, "is one of the great lights in the fields of gender and sexuality law," as well as an expert in constitutional law and European legal systems. Her research interests include German contract law and the First Amendment, and she will be teaching classes on sexuality and sex discrimination.

Case's recent scholarship concentrates particularly on the early history of feminism and the regulation of sex, gender, and sexuality. In a recent article, she analyzes two cases that challenged the exclusion of women from state-sponsored military colleges—specifically, Virginia Military Institute and the Citadel. In doing so, she considers the implications of the disaggregation of sex and gender for feminist legal theory and the constitutional law of sex discrimination.
THE FACULTY WOMEN THEY JOINED

Elizabeth Garrett, Professor of Law and Deputy Dean for Academic Affairs, is a leading scholar who also has oversight responsibility for academic life at the Law School. Garrett has written extensively on the legislative process, ballot initiatives, and the federal budget. She teaches courses on legislative process, federal budget policy, and administrative law.

"My scholarly objective is to change the court-centric focus of legal education. My crusade is to make law students, policy makers, and law professors think about Congress and state legislatures as part of the legal environment in the same way that they think about courts," said Garrett. She has pursued this goal not only at Chicago but also on the international stage by teaching summer courses in statutory interpretation and legislative drafting and U.S. administrative law at Central European University in Budapest. She is also coediting a casebook on legislation, due out in 2000, with William N. Eskridge, Jr., and Philip P. Frickey. In doing so, she draws on her past experience working on tax and budget issues as legislative director for former U.S. Senator David L. Boren of Oklahoma.

As Deputy Dean for Academic Affairs, Garrett is working to enhance the curriculum by developing new courses and programs, by identifying the best people from the Chicago legal community to teach new classes as adjunct lecturers, and by better integrating the Law School into the University as a whole. Garrett also analyzes the academic experience from students’ perspectives to see how it can be improved. For example, this past year, she evaluated policies on everything from the Law School’s clinical programs to the taking of examinations on laptop computers.

Martha Nussbaum, the Ernst Freund Distinguished Service Professor of Law and Ethics, is world renowned for her exploration of the relationship between humanities and the law. She holds a joint appointment in Law, Philosophy, Divinity, and the College and is an Associate member of the Classics Department and an Affiliate of the Committee on Southern Asian Studies. Her scholarship frequently explores the ways in which humanistic reasoning based on Aristotle can serve as a “principled alternative to the utilitarian concepts of practical reasoning that are popular throughout law and economics,” she explained.

Nussbaum believes her philosophy courses are an important part of a legal education. "Law students need to learn to think about the purpose of a legal and political order as being more than maximizing wealth," she said.

Her courses challenge them “to think about how politics can support human needs.” For example, she teaches a course on the work of John Rawls, sometimes focusing on his book *A Theory of Justice* and, more recently, on his *Political Liberalism*. She also teaches feminist philosophy and is now developing courses on utilitarianism and its critics and on global justice.

In addition, Nussbaum has developed a law and philosophy workshop, which she now runs with colleague David Strauss. The workshop has addressed topics such as practical reasoning, equality, pluralism and toleration, and autonomy. The topic for the new millennium will be privacy. She has addressed many of these same issues through her field work in India and through her work for the World Institute for Development Economics Research (WIDER), a division of the United Nations University in Helsinki.

She has also received honorary degrees from Kalamazoo College, Grinnell College, Williams College, St. Andrews University, the Katholieke Universiteit Leuven, Whitman College, the University of Toronto, Bard College, and the University for Humanist Studies.

Dean Fischel describes Tracey Meares, ’91, as a “pioneer in the use of social science research” who is “developing new paradigms for analyzing criminal law and procedure.” Meares entered the field in response to the furor surrounding a theory developed by one of her friends, Harvard Law School Professor Randall Kennedy. He postulated that the black community might welcome harsher penalties for those convicted of crimes involving crack cocaine because their communities bear the brunt of the burden caused by the drug trade. Meares decided to analyze public opinion data to test Kennedy’s theory.

“I came to the conclusion that it’s very complicated,” she said. “My analysis of NORC’s General Social Survey suggests that, although a majority of blacks and whites surveyed held a position that I characterized as ‘dual frustration,’ these respondents tended to be older black women, and they desired less harsh sentences for criminal offenders in general even as they supported criminalization of drug offenses.”
Her work has brought her into the fray over Chicago’s anti-loitering ordinance. The law was written in an effort to combat gang activity by preventing groups of youths from congregating on street corners. But opponents challenged the ordinance because they believed it would allow police to unfairly harass minorities. When the case went to the U.S. Supreme Court, Meares and former colleague Dan Kahan wrote an amicus brief on behalf of a group of community organizations that supported the anti-loitering ordinance.

Emily Buss draws on the psychological literature about child development to analyze issues in juvenile justice, children’s legal representation, and children’s rights. Her scholarship frequently explores the types of situations she faced when she represented abused and neglected children as a staff attorney for the Child Advocacy Unit of the Maryland Legal Aid Bureau and as the deputy director of the Juvenile Law Center in Philadelphia. There she became convinced that the law and legal scholarship failed to account properly for the differences between the adult and the child client. This inspired her to leave practice in order to address her concerns in academia.

In her research, Buss comes to a new understanding of what is happening when attorneys struggle to represent child clients or what is at stake for children and society when the state formulates a response to juvenile crime. She teaches courses on family law, civil procedure, and evidence, which allow her to blend her experience in practice with a more theoretical consideration of the issues.

Five of the 18 female senior lecturers, adjuncts, visitors, and clinical faculty are Diane Wood, Jacqueline Bhabha, Herschella Conyers, Patricia H. Lee, and Catharine MacKinnon.

Judge Diane P. Wood was the Law School’s Harold J. and Marion F. Green Professor of International Legal Studies before becoming a judge of the U.S. Court of Appeals for the Seventh Circuit in 1995. She continues to teach at the Law School as a Senior Lecturer. This year, she will teach first year students Civil Procedure II.

Catharine MacKinnon, a defining voice in feminist legal theory, teaches each spring at the Law School as a Visiting Professor. MacKinnon is well known for pioneering the legal claim for sexual harassment as a form of sexual discrimination. Since 1992, she has represented Croatian and Bosniak (Muslim) women and children who are victims of Serbian genocidal sexual atrocities and has established genocidal rape as a violation of international law in some jurisdictions.

Jacqueline Bhabha, Lecturer in Law, focuses her energies on international issues. She directs the University of Chicago Human Rights Program and has written on refugee law, human rights, women and children’s rights, and developments in European freedom of movement.

Herschella Conyers, ’83, Assistant Clinical Professor, joined the Mandel Legal Aid Clinic in 1993. She and Randolph Stone supervise students involved in the Criminal Justice Project.

In 1998, Patricia H. Lee came to the Law School to launch the Institute for Justice Clinic on Entrepreneurship. As Director of the newest clinical program at the Law School, Lee provides transactional counsel to inner-city entrepreneurs. She also helps to train the growing number of Chicago students who are interested in pursuing small business law.
**THE NEW FEMALE DEANS**

**Sylvia Neil** integrates her diversified background as a litigator, public policy advocate, law professor, administrator, and fundraiser in her newly created position at the Law School, Associate Dean for External Affairs and Planning.

Her responsibilities include development, alumni relations, the Visiting Committee, civic affairs, symposia, events, communications, and publications.

Neil began her career as a staff attorney with the Legal Assistance Foundation of Chicago. She was the executive and legal director of the American Jewish Congress Midwest Region for many years and founded a firm of lawyers and consultants specializing in public policy initiatives and strategic planning. She has also taught at various law schools and at the National Institute for Trial Advocacy.

Before coming to the Law School, she developed programs in the areas of religious liberty, civil rights, women’s rights, welfare reform, law reform, and health care. She also litigated many cases and authored several legislative enactments on these issues. She has been broadly involved in civic affairs, including tenures as Commissioner on the Illinois Human Rights and Cook County Human Rights Commissions, on the board of Leadership Illinois, and on the steering committee of the Illinois Equal Justice Project.

“The University of Chicago Law School is a laboratory for germinating the ideas in the law that change the world,” Neil said. “To me, it is the transcendent cause to nurture and support.”

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**Alison Cooper,**

Associate Dean for Internal Affairs and Special Projects, began her legal career in commercial litigation at Carrington, Coleman, Sloman & Blumenthal in Dallas and did significant pro bono work serving women and children fleeing violent homes. Her first position in academic administration was Assistant Dean at Southern Methodist University School of Law.

Cooper now manages the Internal Affairs of the Law School, coordinating the efforts of Admissions, the Dean of Students, and Career Services, and handles special projects, expanding, overhauling, or initiating services for faculty, staff, and students where needed.

During the past year, she has had a hand in all of the decisions that affect the School’s infrastructure, from coordinating the implementation of the architects’ master planning of future facility needs to ensuring that the School is equipped with cutting-edge technology. Most recently, she has been charged with restructuring admissions.

For her, she explained, “being involved in education, making a difference, and creating and sustaining communities is exciting work.”
Jennifer Sacon worked as a litigator for law firms in Boston and Chicago and conducted several years of soul searching before concluding that a career in academic administration would make the best use of her undergraduate psychology major and her experience as an attorney. Although Sacon describes that period of self-assessment and career counseling as a difficult one, it left her uniquely qualified for the position that she now holds, Assistant Dean and Director of Career Services.

As head of Career Services, Sacon is responsible for the leadership, management, and implementation of all career planning and placement programs for the Law School's approximately 600 students and 7,000 graduates. Expanding services to alumni is one of her primary goals.

“Career services was very different five or 10 years ago. Alumni weren't considered a population in need of services,” Sacon said. “But statistics now show how often lawyers move around in the profession. They are a population that does feel a need for services—and they are entitled to them.”

This summer, Dean Fischel appointed Judith Wright Associate Dean and Director of Library and Information Services. Wright is a true veteran of the Law School. Over the past 29 years, she has dedicated herself to enhancing the holdings and services provided by the Law School's library, taking only one three-year hiatus, in the late 1970s, to earn her J.D.

Wright began as a documents librarian shortly after completing her M.A. at The University of Chicago Graduate Library School. During her time here, the library has moved from relying on a card catalog and print bibliographies for locating materials to using an amazing and ever-improving array of electronic databases.

“Until I retire, people will still need librarians,” Wright said, referring to speculation that computers may someday eliminate the need for humans in her profession. “They can't do it without us. It is a complex environment.”

Ellen Cosgrove, '91, spent 8,325 billable hours in the litigation department at LeBoeuf, Lamb, Green & MacRae in New York before rejoining the Law School in 1995 as Dean of Students.

Cosgrove, a former LSA President, began contemplating a shift into academic administration when she realized that her student government work at Mount Holyoke College and the Law School were among her most fulfilling experiences.

Cosgrove says that she works to make the Law School better for current students by “trying to be a shock absorber. Law School is hard enough, so I try to create an environment where students don't have to deal with administrative hassles.” She does a great deal of counseling, helping students find the right person to solve a problem, and advising on everything from choosing courses to juggling the pressures of family and law school.
Britt Guerrina

After graduating from The University of Chicago with a bachelor's degree in political science and a master's degree in international relations, Guerrina attended France's Ecole Nationale d'Administration, where she studied public administration. During her second year of law school, Guerrina was president of the Chicago Law Foundation, a group that raises money to fund public interest grants. She was editor in chief of the University of Chicago Law Review, a student-edited scholarly journal, in a year when both top editors were women for the first time. As a 1999 graduate, Guerrina was elected to the Order of the Coif and was presented with the Ann Watson Barber Outstanding Service Award. She currently is clerking for Judge Diane Wood of the U.S. Court of Appeals for the Seventh Circuit in Chicago.

Anita Schick

A graduate of the University of Nebraska, Schick grew up in Omaha. As a second-year student, she won the Hinton Moot Court Competition. Last year, she co-chaired the Moot Court Board. She was also a board member of the Law Women's Caucus Board. Schick graduated in 1999 with honors and won the Thomas R. Mulroy Prize. Schick has recently joined the firm of Kirkland & Ellis in Chicago.

Kim Bliss

Bliss grew up in San Diego and graduated from the University of Southern California. During law school, she was the class representative to the Law Students' Association, co-chair of the Lesbian, Gay, Bisexual, and Transgender Students' Association, and a board member for the Mandel Legal Clinic. In her third year, she was a winner in the Hinton Moot Court Competition. Bliss also captained the championship women's flag football team in 1999. Bliss graduated in 1999 with honors, winning the Ann Watson Barber Outstanding Service Award, the Edwin F. Mandel Award, and the Thomas R. Mulroy Prize. Currently, she is clerking for Judge Margaret M. Morrow of the U.S. District Court for Central California.

Brooksany Barrowes

Barrowes grew up in the small town of Warsaw in downstate Illinois and attended Brigham Young University. At the Law School, she became editor in chief of the University of Chicago Legal Forum and worked in the Mandel Legal Aid Clinic. In addition, Barrowes was a member of the Law Women's Caucus, the women's mentoring program, and the Federalist Society. A 1999 graduate, she joined Baker & Botts in Washington, D.C.

Neomi Rao

A graduate of Yale, Rao was president of the Federalist Society in a year in which the organization hosted the society's national symposium. She was also comment editor of the University of Chicago Law Review. At her graduation in 1999, she was elected to the Order of the Coif. Currently, she is clerking for Judge J. Harvie Wilkinson of the U.S. Court of Appeals for the Fourth Circuit in Charlottesville, Virginia.
Women's Mentoring Program Off to Another Good Start

To many women in law school, the actual practice of law is a mystery. What do lawyers do every day? How did they make the transition from school to practice? What issues do they face because of their gender?

For the past seven years, the Women's Mentoring Program has made the practice of law a little less mysterious for hundreds of students. The program was started in 1992 by several first-year women who recognized a need for more student-to-practitioner contact for women students. This year's program cochairs are third-year students Melina Patterson and Michelle Lawner and second-year students Sally Beren and Sara Pildis. They match first-year women students with women practitioners in the Chicago area, and host several group events throughout the year. This year, over 90 percent of the women in the first-year class have asked to participate in the program—a clear indication of its popularity.

Additional events planned for the year include small group dinners and lunches in winter quarter and a panel discussion in the spring. Students and mentors are encouraged to keep in touch with each other and to set up their own meetings as well.

"The program gives students an opportunity to see what it is really like to be a lawyer," said program cochair Melina Patterson. "It also allows students to know that there is life after law school."

This year's first event was a November 3 reception at the Chicago office of Latham & Watkins. Katherine Herzog of Eastern Point Consulting Group, who has set up mentoring programs at many large law firms, gave a brief presentation on the nature of mentoring and how to make it work. The key variable in a successful mentoring relationship, she said, is consistency. Despite time demands, both participants need to carve out time for each other to make it work. And if the relationship is successful, "it's of equal benefit to the mentor and the mentee."
Law School graduates receive hoods that mimic the ones used by judges in 18th-century England. The hood is edged in purple, representing the discipline of law, and lined in maroon and white, the colors of the University of Chicago. The hood represents the completion of the study of law and the entrance into a learned profession.

The Law School Launches a Hooding Ceremony of Its Own
On June 11, 1999, for the first time in its history, the Law School marked graduation with a special hooding ceremony for law students. Just after 11 a.m., immediately following the University Convocation, faculty and alumni hooded the Class of 1999 in Rockefeller Memorial Chapel.

The ceremony began with the procession of graduates and faculty, followed by a welcoming address by Dean Daniel Fischel, ’77, who reflected on the implications of this final gathering together of the entire class. “After spending so much time together over the past three years, this is the last time you will be all together in one place,” he said. “Over the years to come, this physical presence will be replaced by the emotional and spiritual connections that you have established with each other.”

Howard Krane, ’57, Immediate Past Chairman of the University of Chicago Board of Trustees, then spoke on behalf of law alumni, remarking on the relationship between the class of 1999 and previous generations of alumni. Despite their differences, he said, “all students at the Law School were taught how to analyze a problem and how to solve it” rather than simply learning a set of rules.

Graduates Anthony Johnstone and Britton Guerrina presented the 1999 Teaching Award to Professor Richard Helmholz, who spoke on contemporary and historic challenges to the profession (see his remarks at right).

The Class of 1999 Award, newly established by the Law Students Association this year, was presented by graduates Michael Andolina and Julia Reichgott to Professor Emily Buss. This award recognizes a member of the faculty or staff who has made a unique and substantial contribution to improving the quality of student life and enriching the spirit of community at the Law School.

Deans Richard Badger, ’68, and Ellen Cosgrove, ’91, read the graduates’ names as faculty placed traditional academic hoods around their necks. As tradition dictates, the hoods were edged in purple to indicate that the graduates had studied law, and lined in maroon and white, the colors of the University. Professors David Currie, Richard Epstein, David Strauss, and Judge Richard Posner were selected by the graduating class to do the hooding.

Students could also elect to be hooded by University of Chicago alumni in their family. Two Law School alumni helped to initiate what is sure to become a cherished ritual.

“We expect great things of this class”

Remarks by Richard Helmholz
This is a happy occasion and a happy day for us on the faculty as well as you who are graduating. Although you may not fully realize it, we faculty members take pride in your abilities and your accomplishments, both past and future. We join with you in celebrating today. We anticipate—indeed, we expect—great things of this class.

I believe there is very little—really nothing—I could say to spoil this occasion. Even if I were to ask Mr. Johnstone to recite what he knows about the Rule against Perpetuities, this would be taken as harmless eccentricity on my part. Even if it turned out that he knew nothing—a result I am confident would not occur—even this would not spoil the day.

But of course I will not do that. I want instead to say a few words about the legal profession into which most of you will be entering. I will not burden you with something that is just my opinion. I am an academic. So let me make use of what is said about the legal profession in a report commissioned by the state government in the early ’90s.

According to the report, there are serious problems within the profession. It identified three specifically. The first was the growing and excessive number of attorneys. There were too many for the actual needs of our society, and the result has too often been litigation that is wasteful, costly, and frivolous. It recommended a reduction in the overall number of attorneys. Second was a deterioration in the habits of honesty within the profession. The report spoke of ill will and fraud as approaching the norm among those in practice, and it recommended that more be done to inculcate habits of ethical behavior among lawyers. Third were faults in legal education. Those who were entering the profession were not well enough trained to be able to act responsibly and adequately for their clients. They lacked the skills necessary for successful practice. It recommended as a consequence that legal education be put into the closer supervision of the courts of the state.

What response should we as lawyers have to the criticisms contained in this report? Well, for one
thing, we should put it into context. When I described the report as commissioned by the state government in the early '90s, what I said was legally accurate, but I was not forthcoming. Perhaps it was not the whole truth. The state involved was in fact the state of England and the early '90s were in fact the early 1290s. The report appears in the Rotuli parliamentorum for 1292, which puts the report's appearance a little over seven centuries before this morning's ceremonies.

You are therefore entering an old profession that has known criticism from its inception. It has survived. From my perspective today, I would even say we have made some progress since 1292. The history of our profession, I think, recommends a certain degree of skepticism about that criticism's latest incarnation and the proposals made to meet the perceived problems.

Not that the criticism is necessarily wrong. Not that it is something we should ignore. It may be that the 1292 reformers were right, and that their successors today are right, too. I leave that to your judgment. If The University of Chicago Law School has helped you to be lawyers who get behind the slogans and think through the problems with sense and independence, I think we will have accomplished something of value and importance. It is in the trust that is so that I wish you Godspeed today and also a future that will build upon the serious and worthwhile undertaking you have begun here so auspiciously.

George D. Karcazes (A.B. '57, J.D. '60) hooded his son Demetrios Karcazes (J.D.), and Arthur Zilberstein (J.D. '64) hooded his stepson Andrew Behrman (LL.M.). In addition, Martin Stoevesandt (LL.M.) was hooded by his mother, Gertrud Stoevesandt, (M.Ed. in Social Sciences '61; Sophie Evans (J.D.) was hooded by her husband, Bradley Evans (Ph.D. in Literature '98); and Kevin Kelly (J.D.) was hooded by his wife, Nadine Kelly (A.B. '93).

For George Karcazes, the hooding ceremony marked a joyous return to an edifice where his family's achievements have often been celebrated. He recalled previous ceremonies he had attended at Rockefeller Chapel, including his own University Convocation in 1960, his son Demetrios's graduation from the Laboratory Schools in 1992, and, now, Demetrios's graduation from the Law School. "It was an extra bonus to be able to participate in the hooding," he said.

At the end of his remarks, Dean Fischel invited all of the graduates "to reflect on what you want to do with your education—what your dreams are, if you focus on those dreams today, you will always remember them."
1999 GRADUATION AWARDS FOR LAW STUDENTS

The Ann Watson Barber Outstanding Service Award for the third-year students who have made exceptional contributions to the quality of life at the Law School:
Kimberly A. Bliss
Britton B. Guerina
Boiling W. Haxall III
Michael Hershaft
James C. Ho
Julia M. Reichgott
Juan J. Rivero
Michael A. Zwillman

The Joseph Henry Beale Prize, presented to a student in each section of the first-year legal research and writing program whose work is judged to be most worthy of special recognition:
Teal Elizabeth Luthy
Eric David Miller
Jennifer Ruth Sandman
Robert Henry Stikoff
Luke A. Sobota
Aaron Daniel Van Cort

The Donald E. Egan Scholar Award, presented to a student who, like Mr. Egan (J.L. '61), has demonstrated leadership, integrity, and a strong interest in the Law School:
Michael A. Zwillman

The Hinton Most Court Competition Award, to the winner of the Most Court Competition in brief writing and oral argument in the Law School:
Kimberly A. Bliss
Anita Schick
Joseph Terry

The Karl Llewellyn Memorial Cup, for excellence in brief writing and oral argument in the Law School:
Gregory Jacob
Karim Kizer

The Edwin F. Mandel Award, to the graduates who have contributed most to the Law School's clinical education program:
Kimberly A. Bliss
Katchen A. Locke
Todd Edward Pentecost

The Thomas R. Mulroy Prize, for excellence in appellate advocacy:
Hector Acevedo-Polanco
Kimberly A. Bliss
William Copley III
Barack EhCole
Daniel Ho
Gregory Jacob
Anthony Johnston

Karin Kizer
Michael Maimon
Brady Mickelson
Anita Schick
Joseph Terry
Cristian Torres
Victoria True
**with highest distinction
**with high distinction

The John M. Olin Prize, to the outstanding graduate in Law and Economics:
Robert Henry Sirkoff

The Casper Platt Award, for the outstanding paper written by a student in the Law School:
L. Rex Sears

CLASS OF 1999 THIRD-YEAR AWARDS

The E.F. Hutton Award for class participation: “When this person talks, people listen.”
Hector Acevedo-Polanco

Most likely to win a bundle on “Jeopardy!”
Eric Miller

Most underrated performer in the trivia contest
Sharon Gordon

Best person to have in your study group
Carolyn Hann

Most likely to go to a cigar bar with Lott, Epstein, and Landes
Steven Duffield

Attended fewest classes
Michael Wong

Most likely to become a Metallica roadie
Jim Griffith

Most likely to go to a soup kitchen with Strauss, Buss, and Sunstein
Kate Anderson

Person you didn’t get to know but most wish you had
Benjamin Bernier

Most changed during law school
Renee Newman

Most likely to leave the law
Matt Levine

Already left the law
Bradley Tusk

Most likely to get a U of C crest tattoo
Demetri Karacazis

Most hours spent in the Law Library
Britt Guerina

Most hours spent in the Green Lounge
Bob Haxall

Most likely to appear in an '80s after-school special
John Budkin

Most likely to own a personal copy of the Supreme Court Reporters
Jim Ho

Does most to debunk U of C stereotype
Cheryl Rainville

Biggest stress case
Rob Cohen

The Alfred E. Newman “What, me worry?” Award
Nick O'Connell

Best combination of helpful and technically savvy
Gavin Wasserman

Coolest name
Tobias Pinckney

Most outrageous
Jennifer Thurston

Nicest
Anita Schick

Best well-known nickname
“The Chairman” Steve Mao

Best little-known nickname
“World Wide Vogelsperger” Steve Vogelsperger

Most entertaining
Juan Rivero

Who would you most want to date your brother/sister?
Joe Hartman

Most talented
Alex Folder-Dufresne

Gideon Gottlieb award for negotiation excellence
Allison Dent-Ortleib

Best imitation of a facultyworker
Rob Kim (for Posner, Creswell, and others)

Best dancer
Ralph Tsong

Dean Cosgrove award for most hours spent counseling fellow students
Julie Reichgott

Hardest last name to work into a song
Helen Lukacic

Cutest couple (tie):
The Svensen-Reynmans
The Gerbasi-Kadens

Best athlete
Joe Hartman

Done most for class
Julie Reichgott

Person you'd most like to date
Rebekah Holman

Most talented bassist
Chris Carani

Most resembles a famous basketball player
Thomas Lynn

Most enthusiastic
Sandi Morris

Best laugh
Dan Cuntu

Best voice/accent
Laura Kotanchik

Most likely to attend next year's Over-the-Hump
Lonell Wilson

The Hans and Frans Award
Jesse Latham

Best facial hair
Jason Fiegel

Most preppy
Catherine Meeker

Most interesting combination of hometown and undergraduate college
Renee Barker

Best eyes
Alex Price

Quietest
Victor Fernandez

Friendliest
Shirleah Gupta

Future deal-maker of the year award
Allen Webb

The best friends/Siamese twins award
Rubin and Digby

Best hair
Eileen Barish

Best stupid human trick
Mike Andolino—“The Deep RV!!!”

Most mellow
Rob Peterson

Person you'd most like to hire for your firm
Todd Pentecost

Most likely to pursue a career in public interest
Elysia Soloman

Most likely to advertise on TV
Mike Maimin

Most likely to win elected office
Mike Zwillman

Most likely to get another degree
Mark Moller

Most likely to become Dean of the Law School
Michael Hershaft

Person you'd least like to face in court
Jody Terry

Most likely to appear on “Nightline”
Mark Chenoweth

First to be a judge
Rob Sirkoff

First to be before a judge (unwillingly)
Sandi Morris (traffic court)

Most likely to become a rock star
Matt Levine
WHERE ARE THEY NOW?

ALASKA
Anchorage
Steven J. Duffield
Hon. Robert L. Eastaugh, Alaska Supreme Court

ARIZONA
Phoenix
Rachael A. Hill
Hon. Mary Schroeder, United States Court of Appeals for the Ninth Circuit
Robert S. Cohen
Hon. Michael Daly Hawkins, United States Court of Appeals for the Ninth Circuit

CALIFORNIA
Los Angeles
Mayra W. De Aguiar
Aalschuwer Grossman Stein & Kahn
Daniel T. Ho
Gibson Dunn & Crutcher
Adam D. Long
Gibson Dunn & Crutcher
Kimberly A. Bliss
Hon. Margaret M. Morrow, United States District Court for Central California
Scott C. Moore
Max S. Leitman
Ireil & Manella L.L.P.
Alexandra Shin
Jones Day Reavis & Pogue
Eileen D. Barish
Kirkland & Ellis
David A. Goldberg
Cristian S. Torres
Latham & Watkins
Jacquelyn L. Bridgeman-Sanchez
Loeb & Loeb L.L.P.
Allen P. Webb
Patrick Cross
McKinsy & Company
Rebekah Holman
O'Melveny & Myers L.L.P.
Andrea B. Miller
Sheppard Mullin Richter & Hampton
Gavin H. Wasserman
Sidley & Austin

Menlo Park
Wendy L. Moore
Venture Law Group

Newport Beach
Derek S. McCandless
O'Melveny & Myers L.L.P.

Palo Alto
Steven P. Martinez
McCutchen Doyle Brown & Enersen

Pasadena
Luke A. Sobota
Hon. Pamela Rymer, United States Court of Appeals for the Ninth Circuit

San Francisco
Shirish Gupta
Howard Rice Nemerovski Canady
Sarah S. Farnbach
Tiffany R. Stephan
Latham & Watkins
Sidaya A. Moore
Skadden Arps Slate Meagher & Flom

DISTRICT OF COLUMBIA
Brooks Barry
Baker & Botts L.L.P.
Alexandra E. Price
Cleary Gottlieb Steen & Hamilton
Jonathan Z. Ackerman
Donnell Ballantine L.L.P.
Noushin Jahanian
Dickstein Shapiro & Morin L.L.P.
James J. Hegarty
Federal Trade Commission
Joseph E. Hartman
Robert J. Peterson
Putbridge & Jaworski L.L.P.
Daniel A. Cantu
Gibson Dunn & Crutcher L.L.P.
Teresa K. Goebel
Hon. David Tatel, United States Court of Appeals for the District of Columbia
Kate K. Anderson
Hon. Harry Edwards, United States Court of Appeals for the District of Columbia
Eric D. Miller
Hon. Laurence Silberman, United States Court of Appeals for the District of Columbia
Gene P. Healy
Howard & Simon
David F. Azad
Latham & Watkins
Robert S. Kim
Milbank Tweed Hadley & McCloy
Christine A. Laciak
Morgan Lewis & Bockius L.L.P.
Alan Lefkowitz
O'Melveny & Myers L.L.P.
William E. Copley III
Sonnenschein Nath & Rosenthal
Michael A. Zwiobel
U.S. Department of Justice-Civil
Ariana M. Almazan
White & Case L.L.P.
Laura B. Kotanchik
Wilmer Cutler & Pickering

DELAWARE
Wilmington
Karlin L. Kizer
Hon. Jane R. Roth, United States Court of Appeals for the Circuit
Margreta M. Sundelin
Richards Layton & Finger

ENGLAND
London
Seth L. Morgulas
Dewey Ballantine

AUSTRALIA
Sydney
Brady D. Mickelson
Skadden Arps Slate Meagher & Flom, N.S.W.

GEORGIA
Atlanta
Donald R. Bly
King & Spalding

ILLINOIS
Chicago
Hector Acevedo-Polanco
Acevedo-Polanco Consulting
Helen Lukajic
Baker & McKenzie
Heather J. Green
Barack Ferrazzano Kirschbaum
James B. Heaton III
Bartlit Beck Herman Palenchar
Sophie Evans
Todd E. Pentecost
Heidi C. Echols
Bell Boyd & Lloyd
Allison I. Dent-Otterlieb
Cook County Office of the Public Guardian
Sandy L. Morris
Cook County Public Defender
Michael D. Bennett
Credit Suisse First Boston Corp.
Meridith Epstein
Donaldson Lufkin & Jenrette
David E. Winebrenner
Gardner Caron & Douglas
Demetrios G. Karcazes
Michael P. Mullins
Anne M. Pleano
Goldberg Kohn Bell Black
Derek A. Roach
Gordon & Gluckstein P.C.
Nathaniel Carden
Britton B. Guerrini
Hon. Diane Wood, United States Court of Appeals for the Seventh Circuit
Christopher V. Cerani
Hon. Rebecca R. Pallmeyer, United States District Court of Northern Illinois
Christopher A. Perrin
Hon. Richard Cudahy, United States Court of Appeals for the Seventh Circuit

Aaron D. Van Oort
Robert H. Sickoff
Hon. Richard Posner, United States Court of Appeals for the Seventh Circuit
Stephanie G. Cooper
Robert L. Macklin
Jenner & Block
Dennis K. Blackhurst
Jinna K. Cho
Katten Muchin & Zavis
Javier Lizarazu
Katten Muchin & Zavis
John J. Amberg
Barack S. Echols
Kirstin Larson
Mariano E. Martinez
Anita L. Schick
Kirkland & Ellis
Jon S. Drumwright
Alexandra Dufresne
Latham & Watkins
Ralph M. Tsong
Littler Mendelson
Kevin D. Kelly
Lord Bissell & Brook
John B. Bucklin
Amy Finn
Mayer Brown & Platt
Rachel B. Goldstein
Tamura M. Horton
Thomas J. Lynn
Renee S. Newman
Paris A. Wynn
Mayer Brown & Platt
Sandra A. Frantzen
McAndrews Silber & Malloy
James E. Griffith
Sara Krausert
Kathryn M. Mumford
Anne C. Sherman
McDermott Will & Emery
Michael Jakola
McKinsey & Company, Inc.
Joseph S. Cannon
McLachlan Rismann & Doll
Ali J. Rotenberg
Neal Gerber & Eisenberg
Amy M. Kuemmel
Prudential Capital Group
Nicole Y. Smith
Schwartz Cooper Greenberger & Krauss
Michael C. Andolina
Elizabeth R. Anker
Sharon M. Gordon
Lisa M. Katzman
Robert L. Verigan
Sidley & Austin
Mindy E. Nagorsky
Skadden Arps Slate Meagher & Flom
Duncan E. Manville
Sonnenschein Nath & Rosenthal
Elysia M. Solomon
U.S. Court of Appeals for the Seventh Circuit

Indira Saladi
Welsh & Katz

Julia M. Reichgott
Winston & Strawn

Laura E. Scully
Winston & Strawn

INDIANA

Indianapolis

Catherine A. Meeker
Baker & Daniels

Lafayette

Michael S. Kang
Robert F. Greenlee
Hon. Michael Kado, United States Court of Appeals for the Seventh Circuit

Missouri

St. Louis

Mark R. Bagley
Thompson Coburn

MONTANA

Billings

Anthony C. Johnstone
Hon. Sidney Thomas, United States Court of Appeals for the Ninth Circuit

NEBRASKA

Omaha

James M. Masteller
Hon. Thomas Shanahan, United States District Court for Nebraska

NEW JERSEY

Trenton

Bruce E. Fein
Hon. Morton Greenberg, United States Court of Appeals for the Third Circuit

NEW YORK

New York

Michael H. Sampson
Anti-Defamation League

Melissa J. Dawson
Gregory C. Vogelsberger
Crawath Swaine & Moore

Matthew D. Covington
Credit Suisse First Boston Corp.

Rachel Meyer
Debevoise & Plimpton

Jennifer R. Sandman
Hon. Jed Rakoff, United States District Court for Southern New York

Matthew S. Levine
LeBoeuf Lamb Greene & MacRae

Soo Y. Lim
Milbank Tweed Hadley & McCloy

Bradley A. Tusk
New York City Parks & Recreation

Tremaine S. Wright
Paul Hastings Janofsky & Walker

Todd A. Kipnes
Paul Weiss Rifkind Wharton & Garrison

Mary M. Kuan
Jesse D. Latham
Andrew L. Wright
Simpson Thacher & Bartlett

Stephen A. Mao
Skadden Arps Slate Meagher & Flom

Juan J. Rivero
Stroock & Stroock & Lavan L.L.P.

Katchet A. Locke
Vera Institute of Justice

Edward Gery
Whitney, Dillon & Reed

Ellis M. Mishulovich
White & Case L.L.P.

Julie Y. Kim
Whitman Reed Abbott & Morgan, L.L.P.

Carolyn L. Hann
Michael D. Maimin
Willkie Farr & Gallagher

OHIO

Cleveland

Geoffrey M. Johnson
Hon. Karen Nelson Moore, United States Court of Appeals for the Sixth Circuit

Columbus

Eric B. Gallon
Porter Wright Morris & Arthur

Susan Fleischmann
Hon. Bruce W. Kauffman, United States District Court of Eastern Pennsylvania

PENNSYLVANIA

Philadelphia

Teal E. Luthy
Hon. Edward Becker, United States Court of Appeals for the Third Circuit

Alexis L. Collins
Hon. John Padoa, United States District Court for Eastern Pennsylvania

Pittsburgh

Matthew R. D'Ascenzo
Kirkpatrick & Lockhart L.L.P.

Collin E. Wrabley
Read Smith Shaw & McCloy L.L.P.

TEXAS

Dallas

Laura J. Mullins
Hughes & Ladd L.L.P.

Houston

Nicholas E. O'Connell
Fulbright & Jaworski L.L.P.

Willis N. Saustler
Hon. Edith Jones, United States Court of Appeals for the Fifth Circuit

James C. Ho
Kevin J. Miller
Hon. Jerry Smith, United States Court of Appeals for the Fifth Circuit

Emily R. Alderden
Vinson & Elkins L.L.P.

UTAH

Salt Lake City

David C. Reymann
L. Rex Sears

Parr Waddoups Brown Gee & Lovelass

Lara A. Reymann
Peterson Behls & Latimer

VIRGINIA

Charlottesville

Neomi Rao
Hon. James Harvie Wilkinson, United States Court of Appeals for the Fourth Circuit

WASHINGTON

Seattle

Laura K. Clinton
Preston Gates & Ellis L.L.P.

Michelle Y. Clark
Christopher L. Ottele
Short Grassman & Burgess P.L.L.C.

WISCONSIN

Milwaukee

Patrick G. Jasper
Hon. Terence Evans, United States Court of Appeals for the Seventh Circuit
Justice Thomas, Judge Calabresi, and Judge Rosenthal Preside Over HINTON MOOT COURT

Looking back, finalist James Madigan said that the most important thing he took away from his 1998-1999 Hinton Moot Court experience was "a rare opportunity to argue before a Supreme Court Justice—and to test my nerves."

Madigan, 3L, with partner Karin Kizer, '99, and contest winners Kimberly Bliss, '99, and Joseph Terry, '99, argued before Supreme Court Justice Clarence Thomas, Judge Guido Calabresi of the Second Circuit Court of Appeals, and Judge Lee Rosenthal of the U.S. District Court for Southern Texas. The finals took place on May 11 in the Weymouth Kirkland Courtroom at the Law School.

Kizer and Madigan argued the petitioner's side of Thomas v. Anchorage Equal Rights Commission (1999), which tested the ability of religious landlords to refuse to rent an apartment to unmarried tenants in violation of antidiscrimination law. Madigan described it as "a very challenging case" because it covered so many doctrines of constitutional law, including the Free Exercise Clause, the Free Speech Clause, the Takings Clause, and the Establishment Clause, as well as the court's hybrid rights doctrine.

For Madigan, the most memorable moment was the first time Justice Thomas interrupted him. "He asked straightforward questions," said Madigan. "It's hard to disagree with him when you hear his deep, booming voice."

In contrast, for Anita Schick, '99, who cochaired the Hinton Moot Court planning committee with Gregory Jacob, '99, the most memorable part of the experience was hearing Justice Thomas laugh in a private moment before the competition. "He had an amazing belly laugh," Schick said. "I expected a Supreme Court Justice to be very reserved and distant and not familiar. Instead, he was grandpa-like and familiar, very down-to-earth, in a way that really caught me off guard."

During the finals, Schick was struck by the appearance of "three powerful legal minds sitting together, all asking tough questions." She felt honored that they would take the time to participate in a student competition; at the same time, she felt the contestants made an impressive showing. "I had competed the year prior, but I had no Supreme Court Justice to face," she said. (Schick won the 1997-98 competition with partner Daniel Weiss, '98.)

The finalists performed before an extraordinary number of classmates. Tickets were in such demand that students entered a lottery for seats. Those who did not win a ticket for the 187-seat courtroom watched the proceedings on closed-circuit television in the neighboring auditorium.
When the arguments were completed, the three distinguished judges declared that Kizer and Madigan had won the oral argument portion of the competition, but that Bliss and Terry had the superior brief and had won the contest as a whole. All of the finalists had the opportunity to speak privately with the three judges after the contest. "They said they were very impressed and very happy with the entire performance," Madigan reported.

Madigan, the only finalist who did not graduate this spring, will chair the Hinton Moot Court planning committee for the 1999-2000 competition. He had high praise for 1998-1999 cochairs Schick and Jacob and felt that this year's competition would be a difficult one to follow. "I think we will definitely have a hard time picking as good a set of cases," he said.

The Hinton Moot Court Competition was founded in 1954 to give students the opportunity to develop skills in legal writing and appellate advocacy. In the first round of this past year's competition, held in autumn quarter, students argued *Morales v. City of Chicago*, which challenged Chicago's anti-gang loitering ordinance. *Morales* is a much-argued case at the Law School. (See our cover story, "Chicago v. Chicago"). This initial round was open to all Law School students and was judged by Chicago-area alumni.


**Justice Clarence Thomas: Behind the Scenes**

Before U.S. Supreme Court Justice Clarence Thomas took on the official role of being the Chief Justice for the Law School's annual Hinton Moot Court competition, he generously donated time to meet with students—both elementary students from the surrounding neighborhood and Law School students.

His conversations with both groups revealed that the Supreme Court Justice has not only a good sense of humor but also an easy, natural way with young children and passionate views about the high quality of education to be had at The University of Chicago Law School.

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**In the Winner's Circle**

By Kim Bliss

When I agreed to write this article on what it was like to argue in front of Supreme Court Justice Clarence Thomas, Second Circuit Judge Guido Calabresi, and Federal District Court Judge Lee Rosenthal, it didn't occur to me that I might not remember much of the actual argument at all.

Instead, I seem to remember more about before and after the competition. I remember all 600 people who asked if I was nervous about arguing in front of Justice Thomas. I really wasn't that nervous a week before, but all of the questions started me thinking that I should be. By the day of the competition, I was getting nervous about my nervousness.

The night of the competition, I took my family out to a neighborhood restaurant. I was all ready to eat but found that nothing on the normally-appealing menu looked appetizing at all. Getting dressed afterwards, all I could think about was: "What if my stomach growls really loud because I didn't eat?" Here I am, about to argue in front of a Supreme Court Justice, and I'm worried—not about forgetting First Amendment doctrine or the names of cases—but about whether or not my tummy is going to rumble.

Upon arriving at the Law School about a half hour before the start of the argument, I found my partner, Jodie Terry, who had just consumed a roast beef sandwich with peppers and was now following up with a Maalox chaser. Now I didn't know who was more likely to get sick first.

Once we were seated in the courtroom—but before the Justices entered—Jodie started removing things from his cavernous attaché. First, not only his notes for the argument, but a copy of every case he read. Then, a copy of the Constitutional Law Casebook, co-authored in part by Professors Sunstein and Stone. (The book is 1,814 pages long, more than 3 inches thick, and weighs more than my little sister.) At this point, the audience began laughing—either with us or at us. Next he pulled out a "pocket" copy of the Constitution, which all good students of Professor David Currie carry with them. And finally, something that proved helpful to both of us after the competition: a PowerBar. We were prepared.

As I said, I don't remember much of my own argument. But watching the other students—Karen Kizer, James Madigan, and Jodie—was a blast. The students and the Justices were not only well-prepared but very interested in putting on a show for the sold-out house. Justice Thomas and Judge Calabresi both exhibited particularly self-aware senses of humor. Indeed, one of the biggest laughs of the evening was when Justice Thomas referred to one of his own Supreme Court opinions as completely unimportant since it was only a concurrence.

After the competition, the most popular question was, "So, how was Justice Thomas?" Naturally, Justice Thomas was very personable and charming. He remained for quite some time after the argument, talking to the competitors further about the case and asking us about our legal futures. His presence raised interests in and expectations of the competition, which can only benefit the Law School and its students.

This much I can remember.

Kim Bliss, '99, clerks for Judge Margaret M. Morow, U.S. District Court for Central California.
Thomas met with a group of schoolchildren from nearby Carnegie Elementary School, who receive tutoring once a week from University of Chicago law students through the Law School's community service program, Neighbors.

As the children wiggled in their seats in the Weyland Kirkland Courtroom, Thomas went down the row, one by one, asking the students their names, ages, and how many hours of television they watch a day. One child boasted of watching 10 hours a day.

"You think watching all that television is good for you?" Thomas asked the students in typical Socratic-method style. "An hour is about enough, don't you think?" Thomas then relayed the story of his seven-year-old nephew, who recently came to live with the Justice. "How much TV do you think he gets to watch a day? Zero," he said, much to the children's amazement.

He then explained a "formula for success" for them: turn off the television, get a library card, read, and do more homework each day. The children agreed—but Thomas didn't let them off the hook too easily. "Drop me a note and tell me how you are doing," he said. "I'm going to check up on you."

One youngster had had enough of the school discussion and asked what he really wanted to know: did Thomas know Michael Jordan? "I've met the President, but I don't know Michael Jordan. I went to law school with the President."

After posing for a group photo with the children and saying goodbye, Thomas next met with a group of about 50 University of Chicago law students. He told them about his experience on the U.S. Supreme Court and took questions. "It's a family. Without being too gushy about it, it is a wonderful place to be," Thomas said.

In the afternoon before the Hinton Moot Court finals, Justice Clarence Thomas (far left) speaks with a group of law students, including (from left to right) Jonathan Monill, Hortensia Carreira, David Moody, Scott Fuqua, Martin Chester, and Pratheepan Gulasekaram.

At the end of the discussion, Thomas let it be known what he thinks of the Law School. "I think this is the best law school in the country," said Thomas, a Yale Law School graduate. "I think my hiring of Supreme Court clerks reflects that." Eric Miller, who graduated with highest honors from the Law School in June, will serve as a law clerk for Thomas in 2000-2001.

And then Thomas revealed a little bit about himself: his goal in life at one time had been to be a priest. Now he dreams about running a small, local law practice in Savannah, Georgia—but knows it isn't possible. "There's an added obligation to go where the hard questions are," he told the students.
students get hands-on experience at law school clinics

Third-year student Cara Tseng recently did time in Illinois's most notorious maximum security prison, locked behind the walls of a fortress designed to hold the very worst of the state's criminals.

Luckily, Tseng was there as a visitor, allowed access inside the Tamms Correctional Institute to interview inmates in preparation for a lawsuit filed by the MacArthur Justice Center.

"At first it was really exciting to go to the prison," said Tseng, who spoke to inmates about conditions there. "But then I found it to be very depressing. This was a real-life situation."

Led by Jean Maclean Snyder, one of two attorneys that run the MacArthur Justice Center, Tseng and a group of students in the Justice Center's clinical program researched and prepared the federal lawsuit, which was filed in Chicago this past January. The class action suit alleges cruel and unusual punishment of inmates at Tamms, particularly those who are mentally ill.

The suit was one of several high-profile cases handled last year by two of the Law School's clinical programs. Students at the MacArthur Justice Center and the Edward F. Mandel Legal Aid Clinic assisted in criminal and civil cases that offered valuable insights into the complexities of the judicial system while giving them real-life litigation experience in addressing important legal and social issues.

Both clinics, which provide free legal service to those who otherwise could not afford it, give students an opportunity to put legal theory into practice. The Mandel Clinic is the largest of the Law School's clinical programs. The MacArthur Justice Center is a nonprofit public interest law firm affiliated with the Law School and Mandel Clinic.

At the MacArthur Justice Center, Snyder had her students working on every aspect of the Tamms suit. The suit, filed on behalf of four inmates, contends that the state is violating their constitutional rights by placing them in constant confinement at the prison and depriving them of human contact. At least three out of the four inmates have attempted suicide.

"The students' responsibilities include working up the facts and working up the law," Snyder said. "An important part of the experience for them is to go down to the prison and meet the inmates. That's an important experience because it's the kind of thing that will stay with them."

For students involved in the case, the experience has indeed stayed with them. Tseng recalled sitting in a visiting room, separated from the inmates by thick glass and speaking to them through an intercom.

"It was really striking to me," Tseng said. "It was obvious to me that they were hurting from lack of human contact and conversation. I learned what it was really like to be in an institution and be at the whims of the guards."

She heard many sad stories. "Some of them obviously had a psychological condition," Tseng said. "One of the inmates I talked to had made several suicide attempts and self-mutilated himself. When he was talking to me, he started crying."

Jennifer Nash, 3L, did not get a chance to visit the prison but spent time researching the Americans with Disabilities Act to examine its relevance to the case and the issue of mentally ill inmates.

"This is a very interesting issue," Nash said. "Working on this teaches you what it really means to be a lawyer, and it definitely has taught me a lot about how the prison system works. They give the students a lot of responsibility and listen to what you have to say."

Snyder said students exposed to this type of legal work learn how they can make a difference. "It gives them a broad idea of the kinds of things they can accomplish," she said. "It's good for them to see this. These types of lawsuits represent important social issues that are far from the experience most of these students will see in their daily lives."

The philosophy is the same at the Mandel Clinic. Randolph Stone, director of the clinic, said that a large part of the clinic's mission is to take on cases that address larger issues such as a legal reform and social justice. "We look at cases in which we can make a difference, either in the client's life or in public policy," he said.

Stone and clinic attorney Herschella Conyers are leading a team of students in representing a 14-year-old Chicago boy charged with murder in the death of his five-year-old foster brother in March 1998. The
boy's nine-year-old brother, who also was charged, is being represented by legal clinic students at Northwestern University Law School. Both suspects were charged as juveniles.

Police and prosecutors contend that the boys beat their foster brother to death in what appeared to be a sibling rivalry. The legal team at the Mandel Clinic is preparing a defense for the older brother, questioning the police version of the story and the circumstances of his alleged confession.

The case, Conyers said, also raises questions about responsibility of the foster parents and the Illinois Department of Children and Family Services, which administers and oversees the foster care program.

"The students are part of all of the decision-making processes in the case," Conyers said. "This case is very engaging in a lot of ways, especially in sorting out who is responsible for what happened. We clearly believe that our client is innocent."

Nicole Smith, '99, said the experience was invaluable. She and her fellow students spent time brainstorming possible legal strategies, as well as focusing on preparing pretrial motions, gathering facts, and researching memoranda of law to support their motions.

But there was also the human element that made the case more vivid. Smith says she spoke with the young defendant and his family several times. "You're face to face with someone who is depending on you to do something that could affect the rest of his life," she said. "That's really important."

For Smith, working on this case has illuminated a world that she knew little about. "For the most part, you're dealing with people whose life experiences are completely different from your own," she said. "One of the things I learned was that convictions are so easy in many cases because defendants are ignorant of their rights."

Doug Kramer, a third-year student who worked on the case, says he also took away some important lessons. "The whole process is much more simple than I expected," Kramer said. "When you hear, 'first-degree murder,' you expect something much more grandiose. Not to sound too naive in the ways of the world, but I expected the whole process to be something more weighty. I expected impressive people going through deep, contemplative processes. But I don't see that. The world doesn't stop to deal with this young man. Everyone has to keep running through their day, attending to other duties."

Kramer worked on writing motions to quash the arrest and suppress the statement attributed to the young defendant. He also met with the boy and his mother on several occasions to discuss the case.
“It is remarkable all of the issues that exist in this case, a number of which seem to be new to the criminal justice system in Illinois,” Kramer said. “It’s fun to talk about, to work through the issues and implications. Unfortunately, it’s not an academic exercise.

“The unusual circumstances in this case raise some constitutional questions,” Kramer continued. “Can a child of this age feel comfortable refusing to talk to the police without a parent or lawyer present, at least? Should the rules for questioning youngsters be different? Also, the case raises issues about various social service agencies and the way that they place children into new environments.”

Fortunately, the clinic’s social worker, Michelle Geller, and her students from the University's School of Social Services Administration are collaborating on the case with the lawyers and law students. The case is still pending.

James Joseph, ’94, Assistant Director of the Institute for Justice Clinic on Entrepreneurship (center), meets with Daniel Liljenquist, 2L (right), and a client in the new Arthur Kane Center for Clinical Legal Education, which also houses the Mandel Legal Aid Clinic and the MacArthur Justice Center.
"DON'T ASK, DON'T TELL"
and the Constitution
By James Madigan

The United States military's "Don't Ask, Don't Tell" policy has been controversial since its inception. Students at the Law School had a unique opportunity last spring to gauge the effect of that policy by listening to the plaintiff, the plaintiff's attorney, and the judge involved in a major challenge to its constitutionality.

The Law School welcomed Joseph Steffan, who was dismissed from the U.S. Naval Academy in 1987 after responding "Yes, sir" to a superior officer's inquiry, "Are you a homosexual?" Prior to his dismissal, Steffan had been elected Regiment Commander by his classmates and selected to serve as Battalion Commander, meaning that he was one of the Academy's top 10 midshipmen. He twice sang the National Anthem as soloist for the Army-Navy game. His stellar credentials were eclipsed, however, when another student told the Naval Intelligence Service that Steffan had admitted to being gay. When Steffan refused to deny his homosexuality, the Academy switched his "A" performance rating to an "F" and recommended his discharge for "insufficient aptitude for commissioned service."

Joining the panel discussion was Marc Wolinsky, '80, a partner at Wachtell, Lipton, Rosen & Katz in New York. Wolinsky represented Steffan in the lawsuit challenging the constitutionality of the military's exclusion of homosexuals. This was no ordinary pro bono case, however. Wolinsky went on to argue multiple appeals in the D.C. Circuit in a battle with the United States government that lasted until 1994.

Rounding out the panel was the author of the opinion in one of those appeals: Abner Mikva, '51, former Chief Judge of the District of Columbia Court of Appeals and Lecturer at the Law School. In 1993, Mikva and two other judges held that the exclusion of service members based on homosexual orientation violated the Equal Protection Clause of the Fifth Amendment. In his opinion for the panel, Mikva wrote: "America's hallmark has been to judge people by what they do, and not by who they are."

His decision had a short lifespan: the Court of Appeals quickly voted sua sponte to hear the entire case en banc and upheld the military regulations excluding gays and lesbians.

Students filled the Weymouth Kirkland Courtroom at the Law School to listen to the three men offer perspectives about the case. Steffan gave a moving account of the disappointment he felt leaving the Academy just weeks before he would have graduated. A bright, articulate speaker, Steffan pierced the justifications offered for the military policy using his own experience as evidence. Now a lawyer himself, Steffan urged students to consider the fate of hundreds of service members still being discharged from the military in the wake of "Don't Ask, Don't Tell."

When it was Wolinsky's turn to speak, he began by acknowledging that Steffan was an ideal plaintiff and thanking him for the opportunity to champion his cause. Wolinsky explained the basis for the equal protection claim and offered a general critique of the military's exclusion of gay men and women. Wolinsky praised his law firm for supporting him during the long legal battle.

He recalled run-ins with an unsympathetic federal district judge who at one point dismissed the case as a discovery sanction. The government wanted to discover information about Steffan's sex life after he left the Academy. Wolinsky argued that it was irrelevant and refused to comply. The trial judge dismissed the entire case; the Court of Appeals agreed with Wolinsky and had to reinstate the suit.

The charismatic Judge Mikva credited Wolinsky's excellent work on briefs and in oral argument. Mikva described the heated reaction among his colleagues after he declared the military policy unconstitutional. He even received a phone call from another D.C. Circuit judge who vowed to have Mikva's decision reconsidered by the entire court.

Mikva told students that he was impressed by young people's ability to deal with the issue of gay rights. "You've certainly done better with it than our generation has," he said.

Dean Daniel Fischel, who helped the members of OutLaw (the lesbian and gay law students association) to invite the panelists, concluded the panel with praise for the ongoing dialogue on this sensitive issue. He ended by noting that this was one of the best discussions at the Law School that he could remember.

James Madigan, '00, is a member of Outlaw, a symposium editor for The University of Chicago Law School Roundtable, and the chairman of the Hinton Mock Court Board.
ON-CAMPUS INTERVIEWING Goes On-line

In spring 1999, the Office of Career Services contracted with an outside vendor to provide an Internet-based system that include on-line registration, scheduling, student preferencing, and résumé submission in conjunction with the on-campus interview programs. OCI+ is an Internet-based program custom designed by Netplacement Corporation to streamline the entire administrative process associated with on-campus interview programs. OCI+ provides the Law School with a Web presence that students will be able to link to at any time from any computer with access to the Internet. This technology enables students to register on-line for the on-campus interview programs. Students are able to upload their résumés and to transmit them electronically to the Office of Career Services. In addition, students are able to research and review employer information on-line and to rank and preference the employers with whom they wish to interview on-line. The technology also enhances and expedites communication between students and the Office of Career Services by enabling the Office to transmit student interview schedules electronically and to provide “real time” notification of schedule adjustments.

NEW STUDENTS ARRIVE AT THE LAW SCHOOL

On September 28, the Law School welcomed 183 members of the J.D. Class of 2002 and 53 foreign-trained lawyers of the LL.M. Class of 2000. In the J.D. class, 39 percent are women and 19 percent identified themselves as persons of color. A total of 2,972 candidates applied to the J.D. program; 879 were admitted.
**Programs Sponsored by Student Organizations, 1998-1999**

**The Federalist Society** hosted a lecture by New York Governor George E. Pataki, who gave his views on "The Role of Government in the 21st Century."

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### Symposium

- **Legal Forum Symposium**
  - Speaker: Judge Diane Wood
  - Topic: "The Law of Sex Discrimination"

- **Roundtable Symposium**

### Law Review Symposium

- Topic: "Formalism Revisited"

### Federalist Society Symposium

- Topic: "Competition, Free Markets, and the Law"

### Meetings and Lectures

#### Federalist Society Meeting

- **Speaker: Professor Richard Epstein**

#### Federalist Society Meeting

- **Speaker: Professor Eric Freedman, Hofstra Law School**
  - Topic: "Can a Sitting President Be Criminally Indicted Before Impeachment?"

#### Federalist Society Meeting

- **Speaker: Dan Troy, Partner, Wiley Rein & Fielding**
  - Topic: "Commercial Speech"

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### Programs

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| **Black Law Students Association Meeting**                           | Michelle Hughes, '88  
**Topic:** "Practicalities of Adoption Law"                              |         |
| **Chicago Law and Society Meeting**                                   | Thomas Geoghegan  
**Topic:** "Organized Labor and Federalist No. 10: Why the Founding Fathers Support John Sweeney and Labor Law Reform" |         |
| **International Human Rights Society Meeting**                       | Olawale Fapohunda, Nigerian Human Rights lawyer  
**Topic:** "Human Rights in Africa"                                       |         |
| **Asian American Law Students Association Meeting**                 | Randy Barnett, Boston University  
**Topic:** "The Siege: Combating Muslim Stereotypes"                      |         |
| **Federalist Society Meeting**                                        | Walter Berns, Professor Emeritus, Cornell University  
**Topic:** "Patriotism and the Constitution"                             |         |
| **Lawyers as Leaders Meeting**                                       | Bill Hannay  
**Topic:** "What Are Our Natural Rights?"                                |         |
| **International Law Society Meeting**                                | David Gerber, Professor, Chicago Kent  
**Topic:** "Europe and the Globalization of Antitrust Law"               |         |
| **Environmental Law Society Meeting**                                | Tom Buchele, Environmental Law and Policy Center  
**Topic:** "The Pinochet controversy"                                    |         |
| **Chicago Law & Society Meeting**                                     | Professor Jack Goldsmith  
**Topic:** "What Money Can't Buy"                                       |         |
| **International Human Rights Society Meeting**                       | Jacqueline Bhabha  
**Topic:** "Political Asylum and Human Smuggling—the Human Rights Issue" |         |
| **Federalist Society Meeting**                                        | Governor Pataki (R-New York)  
**Topic:** "The Role of Government in the 21st Century"                   |         |
| **Law and Internet Forum Meeting**                                   | Professor Jack Goldsmith  
**Topic:** "The Place of Religion in American Public Life"               |         |
| **Federalist Society Meeting**                                        | Judge James L. Buckley, U.S. Court of Appeals for the D.C. Circuit  
**Topic:** "The International Criminal Court: Why Europe Is Right and Washington Is Wrong" |         |

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**Law and Internet Forum Meeting**

- **Speaker:** William Cook  
  - Topic: "Internet and Web Law: Just When You Thought It Was Safe to Use E-Mail"

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**Environmental Law Society Meeting**

- **Speaker:** Peter Morman  
  - Topic: "The Status of the Midwest High Speed Rail Project"

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**Federalist Society Meeting**

- **Speaker:** Judge Paul V. Neimeyer, U.S. Court of Appeals for the Fourth Circuit  
  - Topic: "Mass torts litigation"

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**Law School Democrats Meeting**

- **Speaker:** State Senator Barack Obama  
  - Topic: "Duty to Rescue under Jewish and U.S. Law"

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**Federalist Society Meeting**

- **Speaker:** Governor Pataki (R-New York)  
  - Topic: "The Role of Government in the 21st Century"

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**Law and Internet Forum Meeting**

- **Speaker:** Professor Jack Goldsmith  
  - Topic: "The Place of Religion in American Public Life"
Federalist Society Meeting
Speaker: Judge Sentelle, Court of Appeals for D.C. Circuit
Speaker: Former Senator Paul Simon
Topic: The future of American politics

Federalist Society Meeting
Speaker: Judge Alice Batchelder of the Court of Appeals for the Sixth Circuit

Voting and Democracy Society and the Law School Democrats Meeting
Speaker: Jamie Reskin, American University
Topic: Democracy enhancing litigation

Federalist Society Meeting
Speaker: Linda Greenhouse, Supreme Court Reporter for the New York Times

Law School Republicans Meeting:
"Topic: "In Defense of Liberty: Conservative Ideas on Freedom"

The Jewish United Fund/United Jewish Appeal and Jewish Law Students Association Meeting
Speaker: Senior Judge Abraham Lincoln Marovitz

Law School Republicans Meeting
Speaker: William F. Buckley, Jr.

Jewish Law Students Association and OutLaw (previously LGBT):
Speaker: Alan Harel, Professor of Law, Hebrew University in Jerusalem, Visiting Professor at Columbia, and member of the board of the Association for Civil Rights in Israel

Asian American Law Students Association and International Human Rights Society Meeting
Speaker: Matt Plears, Attorney for Muhammad Salah

Federalist Society Meeting
Speaker: Dr. Wendy Gramm, former head of the Commodities Futures and Trading Commission
Topic: "Regulation—the Hidden Tax"

International Human Rights Society Panel Discussion
Speakers: Professors Gideon Gottlieb, Jack Goldsmith, M. Geyer, and Jacqueline Bhabha
Topic: Kosovo, NATO, and international law

Lawyers as Leaders and Law School Republicans Meeting
Speaker: Charles Ablard of Ford

Jewish Law Students Association, Christian Law Students, and St. Thomas More Society Meeting
Speaker: Professor Albert Alschuler
Topic: "Moral Skepticism in 20th Century American Law"

Law and Internet Forum
Speakers: Gordon & Glickson
Topic: Microsoft and Spam

Lawyers as Leaders Meeting
Speaker: Professor Catharine MacKinnon
Law School Democrats and UC Democrats Reception to honor Judge Abner Mikva

Mandel Legal Aid Clinic Student Association and Careers in Public Service Meeting
Speaker: Patrick T. Murphy, Cook County Public Guardian

Lawyers as Leaders Meeting
Speaker: Jerry Springer
Speaker: Judge Frank Easterbrook.
Topic: Oral advocacy from a judge's perspective

Jewish Law Students Association Meeting
Speaker: Harlan Loch, Midwest Counsel for the Anti-Defamation League

Ickes Speaks at the Law School
By Matthew D. Michael

Former White House Deputy Chief of Staff Harold Ickes harnesses Washington’s political culture.

That much was clear when Ickes spoke to a packed audience at the Law School’s Wayland Kirkland Courtroom last April.

During his lecture, appropriately titled “Public Service in the Theater of the Absurd,” Ickes reeled off many a political war story and attacked the spirit of inquisition that has gripped national politics. He commented that he was “not doing nearly as well as my lawyers,” given the recent investigations into his role in the 1996 election finance scandals.

He related his personal highs and lows during his tenure as Chief of Staff, Most memorable for him were the aftermath of the Oklahoma City bombing, when, he said, President Bill Clinton came into his own as a national leader; and his travels with Clinton through Ireland, when there was an outpouring of goodwill toward the president. The lowest of the lows came during the election-night defeat in 1994 and Ickes’s “long walk to tell the President the results.”

Although Ickes was disillusioned with the “theater of the absurd” in Washington, D.C. (he said the possibility of returning to the White House staff was “remote beyond belief”), he still finds public service a “high calling.” “I’m proud to have served,” he said.

Matthew D. Michael, ’00, a president of the Law Student Association.

Former Clinton White House Deputy Chief of Staff Harold Ickes, a Marjorie Kovler Visiting Fellow, speaks on “Public Service and the Theatre of the Absurd.”
The 1999 Law School Musical, Raiding Places, played off the plot of the 1983 movie, Trading Places, by having a law student trade places with Dean Daniel Fischel.

1. Ryan Tisch (as Dean Fischel) and Lisa Swedenborg (as a student) trade places.
2. Jon Drumwright listens as Ellen Fulton speaks passionately about bakers’ freedom of contract.
3. The audience enjoys the production.
4. Catherine Meeker, ’99, has a good laugh at her fellow students’ antics.
5. Charlie Schlangen (center, playing Professor David Strauss) and Josh Rabinevitz (not pictured, playing Judge Posner) plot to switch the student and the dean, with encouragement from Paul Moore and Victor Chiu.
6. Jaime Hegarty and Mike Andolina perform the obligatory Law School Musical kiss.
7. Dean Fischel enjoys the production.

Photos by Cheri Eisenberg
The January 22 Chicago Law Foundation Charity Auction raised over $19,000 to fund grants for students working in the public interest and charities benefiting the Woodlawn community.

1. Professor Richard Epstein acts as the auctioneer.
2. Bodie Haxall successfully bids on the Hoy Sport package, including a baseball autographed by Mike Caruso of the White Sox and a tour of the United Center along with other goodies.
3. CLF President Tiffany Stephan, ’99, and Richard Epstein model the official auction T-shirt, designed by Studio Air, a Southside business run by Chicago teens.
4. Everyone, including Bill Coplay, Eileen Barish, and Scott Moore of the Class of ’99, wants to make the auction a success.

Photos by Cheri Eisenberg
George Triantis and Mary Anne Case
JOIN THE FACULTY

Two outstanding legal scholars joined the Law School faculty this autumn: George G. Triantis, who is at the forefront of contract and commercial law, and Mary Anne C. Case, a top researcher in gender and sexuality.

Triantis is a leading expert in contracts, commercial law, secured transactions, and bankruptcy. He is also known as an outstanding teacher. In 1992, he was named Professor of the Year at the University of Toronto. "George will add further strength to our private law curriculum and faculty, which is already by far the strongest in the country," Dean Daniel Fischel said.

Triantis was formerly the Nicholas E. Chimicles Research Professor of Business Law and Regulation and the Director of the John M. Olin Program in Law and Economics at the University of Virginia School of Law. Previously, he was an Assistant Professor of law and management at the University of Toronto. At Virginia, he was awarded the Roger and Madeline Traynor Faculty Achievement Award for Excellence in Legal Scholarship in 1998.

Triantis's publications include "The Timing of Contract Breach Decisions" and "Financial Slack Policy and the Laws of Secured Transactions." He received a B.A. in 1980 from Trinity College at the University of Toronto, an LL.B. in 1983 from the University of Toronto, an LLM. in 1986 from the University of Virginia, and a J.S.D. in 1989 from Stanford University.

Case is an eminent authority on constitutional law, European legal systems, and sex, gender, and sexuality. She will be teaching classes on sexuality and sex discrimination during her first year at Chicago. "The Law School now has an increased emphasis on the regulation of gender, sexuality, family, and children," Fischel said. "Mary Anne is a key contributor to our curriculum."

Case was formerly the Class of 1966 Research Professor of Law at the University of Virginia. She received the Bankard Fund Award for Political Economy for her research on comparative German-U.S. contract law. Previously, she litigated for Paul, Weiss, Rifkind, Wharton & Garrison in New York.

Case's publications include "Disaggregating Gender from Sex and Sexual Orientation: The Effeminate Man in the Law and Feminist Jurisprudence" and "Couples and Coupling in the Public Sphere: A Comment on the Legal History of Litigating for Lesbian and Gay Rights." She received her B.A. from Yale College in 1979 and her J.D. from Harvard Law School. She also studied at Ludwig Maximilianus Universitaet in Munich.
FACULTY ACTIVITIES, 1998-1999

Albert W. Alschuler
Wilson-Dickinson Professor of Law and Arnold and Frieda Shure Scholar

Publications


Presentations
Law and Society Association Annual Meeting, Panel on the Writings of Benjamin Cardozo, June 1999.


Press Conference of the Ford Heights Four with Mark and Helen Mullen, J.D., 87, April 1999.

Talk on Kenneth Starr's Investigation of President Clinton and the Need for Grand Jury Reform, March 1999.


Douglas G. Baird
Harry A. Bigelow Distinguished Service Professor

Publications

Lisa Bernstein
Professor of Law

Publications

Presentations


Legal Formalism Revisited, The University of Chicago Law School, February 1999.


Special Lecture Series on Myths in the Law, University of Montreal, March 1999.

Law and Economics Workshop, University of California at Berkeley, April 1999.


Faculty Workshop, University of Virginia, April 1999.


Elected a Director of the American Law and Economics Association.

Emily Buss
Assistant Professor of Law

Publications

Presentations
Symposium on Children's Constitutional Rights, "What Does Frieda Yoder Believe?" University of Pennsylvania Law School.

Mary Anne Case
Professor of Law

Publications


David P. Currie
Edward H. Levi Distinguished Service Professor and Arnold and Frieda Shure Scholar

Publications


Kenneth W. Dam
Max Parn Professor of American and Foreign Law

Publications

Presentations
Elected Chairman of the German-American Academic Council.


Conference on the Asian Financial Crisis, Co-Chair, Aspen Strategy Group, August 1998.


Member, Commission on the World Financial Crisis, Council on Foreign Relations.


Member of the Board, Council on Foreign Relations.

Member, Brookings Institution.

Chair, Advisory Board of Foreign Affairs.

Frank Easterbrook
Senior Lecturer

Publications


Richard A. Epstein
James Parker Hall Distinguished Service Professor

Publications


Talks on corporate educational policy and funding, takeovers, labor relations, environmental law and takings, political theory, telecommunications, parliamentary government.

Mackintosh Lecture in Economics, Queen's University, Canada, March 1999.


Daniel R. Fischel
Dean and Lee and Brenna Freeman Professor of Law and Business

Publications


Elizabeth Garrett
Professor of Law and Deputy Dean for Academic Affairs

Publications


Presentations


NYU Constitutional Law Colloquium, 1999.


Member, Planning Committee for the AALS Workshop on Administrative Law, 1999.


Visiting Professor of Law, Central European University, June 1999.

Jack L. Goldsmith
Professor of Law

Publications


"Yugoslavia and the Paradox of International Human Rights Law," appearing in 40 international newspapers (May 1999).

Presentations


University of Kansas Law School Workshop, February 25, 1999.


Commentator, SOKOL Colloquium on the Harmonization of International Commercial Law, University of Virginia, September 12, 1998.


Jill Hasday
Assistant Professor of Law

Publications

R. H. Helmholz
Ruth Wyatt Rosenson
Professor and Arnold and Frieda Share Scholar

Publications


Presentations
Elected a Corresponding Fellow of the British Academy.

Dennis J. Hutchinson
Professor in the College, Master of the New Collegiate Division, Associate Dean of the College and Senior Lecturer in Law
Publications


Presentations
Law and Society Association Annual Meeting, Panel on the Writings of Benjamin Cardozo, June 1999.

Joseph Isenbergh
Seymour Logan Professor of Law
Publications


"Censure is the Best Solution," Chicago Tribune 17 (December 11, 1998).

William M. Landes
Clifton R. Musser Professor of Law and Economics
Publications

Saul Levmore
William B. Graham Professor of Law
Publications


Presentations
Alumni Reunion Weekend Talk on Various Topics Relating to Reaparations When There Is "Legal Change," The University of Chicago Law School.

Presented at Loyola (Los Angeles), Case Western, and Annual Conference, American Law and Economics Association.

First Year Dinner Annual Faculty Talk, "Passions and Puzzles," The University of Chicago Law School.


The Wilber G. Katz Lecture: Professor Albert Alschuler, "Blowing Out the Moral Lights Around Us: The Skepticism of Oliver Wendell Holmes." The Wilber G. Katz Lectureship was established in 1976 in honor of Wilber G. Katz, Dean of the Law School from 1940-1950, to fund an annual lectureship on a legal topic of significance by a member of the faculty of the Law School.

The Coase Lecture: Professor Saul Levmore, "Carrots and Torts." The Coase Lecture series was established in honor of Ronald H. Coase, Clifton R. Musser Professor Emeritus of Economics at The University of Chicago Law School, to provide law students and others with an introduction to important techniques and results in law and economics.

The Maurice and Muriel Fulton Lecture: John H. Langbein, Chancellor Kent Professor of Law and Legal History at Yale Law School, "The Origins of Defensive Safeguard in Anglo-American Criminal Procedure." The Maurice and Muriel Fulton Lectureship in Legal History was created in 1985 through a gift made by Mr. Fulton, '42, and his wife, Muriel, an alumna of the College.

Dean Daniel Fischel, '77, Muriel and Maurice Fulton, '42, John H. Langbein, and Richard Helmholtz pose for a photo following Professor Langbein's presentation at the Fulton Lecture, where he spoke on "The Origins of Defensive Safeguard in Anglo-American Criminal Procedure."
Annual Coase Lecture, “Carrots and Torts,” The University of Chicago Law School.
Conference on Formalism, Comment on “Double-Blind Lawmaking,” The University of Chicago Law School.
Commentator, Tax Law Conference, Harvard.
Comments on an emerging volume of work on Comparative Corporate Law, Paris.

**Douglas Lichtman**
Assistant Professor of Law

**Publications**
The School of Information Management and Systems, University of California, Berkeley, February 22, 1999.

**Presentations**
The School of Information Management and Systems, University of California, Berkeley, February 22, 1999.

**Lyonne Louis-Jacques**
Foreign and International Law Librarian and Lecturer in Law

**Publications**
"Legal Research Using the Internet," 4 Careers and the Minority Lawyer 38, (Spring 1999).

**Martha C. Nussbaum**
Ernst Freund Distinguished Service Professor of Law and Ethics

**Publications**

**Tracey L. Meares**
Professor of Law

**Publications**

**Martha Nussbaum Wins Ness Book Award**

Martha Nussbaum’s Cultivating Humanity: A Classical Defense of Reform in Liberal Education (Harvard University Press, 1997), received the 1999 Frederick W. Ness Book Award from the American Association for Colleges and Universities (AAC&U). The award is made each year to a book that contributes to the understanding and improvement of liberal education.

In her acceptance speech, delivered at the AAC&U’s annual meeting on January 30, 1999, Nussbaum explained that in Cultivating Humanity, she, like the Roman philosopher Seneca, was seeking to determine how a liberal education could prepare students to live in two communities. "One," Nussbaum said, "is the community where we happen to be born. But then there is this other one, he said, the one that is truly great and truly common where we look neither to this corner nor to that, but measure the boundaries of our republic by the sun. This community is the community of all human beings in all their complexity and diversity."

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"Het Jodendom of Value," in The Harmo-


Presentations
Thalheimer Lectures, Johns Hopkins University, 1998.


Seymour Ricklin Lecture, Wayne State University, 1999.

Castle Lectures, Yale University, 1999-2000.

Randal C. Picker
Paul H. Lehmann Professor of Law

Publications


Eric Posner
Professor of Law

Publications


Presentations
A Theory of Customary International Law (with Jack Goldsmith), University of Chicago Law School.


"Law, Cooperation, and Rational Choice," Georgetown University Law Center.

Presented at Yale Law and Economics Seminar, Venderbilt Law School, and University of Minnesota Law School.

"A Theory of Customary International Law," Loyola University New Orleans School of Law.


The University of Chicago Law and Economics Seminar, "Rethinking Cost-Benefit Analysis" (with Matthew Adler).


"Simplicity and Complexity in Contracts," The University of Chicago Law School.

Richard A. Posner
Senior Lecturer

Publications


"From the Bench: Convincing a Federal Court of Appeals," 25 Litigation 3 (Winter 1999).


Review of William T. Pizzi, Trials without Truth: Why Our System of Criminal Trials Has Become an Expensive Failure and What We Need to Do to Re-Build It, Times Literary Supplement 9 (February 20, 1999).

WORKSHOPS

Law and Economics Workshop: Professors Daniel Fischel and Alan Sykes, "Governmental Liability for Breach of Contract."

Legal History Workshop: Professor Edward Balleisen (Duke History Department), "Dilemmas of Failure: Bankruptcy, Commercial Morality, and Business Culture in Antebellum America.


Legal History Workshop: Matt Lindsay, University of Chicago History Department, "Producing a New Citizen: Dependency, Social Reform, and Family Law in the United States, 1850-1920.

The Legal History Workshop: Stuart Banner, Professor of Law, Washington University, "Two Properties, One Land: Law and Space in Nineteenth-Century New Zealand.

Public Law Workshop: Brian Leiter, the University of Texas and Yale Law School, "Positivism and Realism.


Law and Economics Workshop: John Donohue and Steven Levitt, Stanford Law School, "Initial Explorations into the Link between Legalized Abortion and Crime.


Center for Studies in Criminal Justice Lecture: Dallio Case and Police Abuse.

Law and Internet Forum: Sherry Steele, Marc Rotenberg, and Professor Douglas Lichtman, "The Politics of Cyberspace, Threat to Free Speech, Privacy and Other Civil Liberties.


"The Law and Economics of the Expert Economic Witness,


Presentations
Law and Society Association Annual Meeting, Panel on the Writings of Benjamin Cardozo, June 1999.

Julie Roin
Professor of Law

Publications

Presentations

Panelist, University of San Diego School of Law Tax Conference, March 1999.


Gerald Rosenberg
Associate Professor, Department of Political Science and the College and Lecturer in Law

Publications
Review of Bruce Ackerman, We the People: Transformations, 2 Green Bag 2d 209 (1999).

Andrew M. Rosenfield
Senior Lecturer

Publications

Stephen J. Schulhofer

Publications


Geoffrey R. Stone
Provost and Harry Kelven, Jr., Distinguished Service Professor of Law

Publications


"What If America Had Only One Mixed Race?" Chicago Tribune 17 (March 31, 1999).

"Moral Zealotry is a Worse Crime," Chicago Tribune 20 (February 20, 1999).

David A. Strauss
Harry N. Wyatt Professor of Law, Russell Baker Scholar, and Director, Legal Theory Program

Publications

Cass R. Sunstein
Kari N. Llewellyn Distincted Service Professor of Jurisprudence

Publications


Review of Janet Halley, Don't, 221 New Republic 41 (September 6, 1999).


Presentations

Conference, Talk on Regulation of the Communications Market, Frankfurt, Germany, June 1999.

Legal Theory Workshop on Risk Regulation, Talk with particular emphasis on environmental protection, Yale Law School, October 1999.

Symposium on Republicanism, Keynote Lecture, Columbia University, March 1999.

Talk on Problems Associated with Damage Awards, University of Nebraska.

Conference on Formalism in Statutory Interpretation, The University of Chicago.

Writing Participant, Final Report of the President's Advisory Committee on the Public Interest Obligations of Digital Television Broadcasters.

Testimony: The Legal Standards in Connection with the Impeachment of President Clinton, House of Representatives, U.S. Congress.

Alan O. Sykes
Frank and Bernice Greenberg Professor of Law

Publications


Presentations
"Governmental Liability for Breach of Contract" with D. Fischel, The University of Chicago.

Also presented at Georgetown, Harvard, and Stanford.

Elected to the Board of Directors of the American Law and Economics Association.

Adrian Vermeule
Assistant Professor of Law

Publications


David A. Weisbach
Associate Professor of Law

Publications

Diane Wood
Senior Lecturer

Publications
Professor Richard Epstein is a perennial favorite with media.

**November**

The New York Times reviewed Professor Richard Epstein's book *Principles for a Free Society* (November 1). Epstein was praised as a "powerful and original intellect," and his book was called an "accessible work that offers a coherent, impressively detailed theory of the proper function of law and the state."

Professor Elizabeth Garrett appeared on ABC's World News Tonight with Peter Jennings during a segment discussing voter initiatives (November 3). Garrett commented on how the public often lacks information regarding how money for these initiatives is used and where the money comes from.

Professor David Currie drew media attention with his performance as the judge in Gilbert and Sullivan's "Trial by Jury" in the Waymouth Kirkland Courtroom at the Law School. Currie was profiled in numerous publications, including the Chicago Daily Law Bulletin (November 9), the Chicago Sun-Times (November 10), and the Chronicle of Higher Education (November 13). Currie has been with the Gilbert & Sullivan Company for 36 years.

Professor Cass Sunstein testified before the House Judiciary Committee's constitution subcommittee about the standards for impeachable offenses. Video clips of Sunstein's testimony appeared on three CNN broadcasts. Sunstein also appeared in "The News Hour with Jim Lehrer." Sunstein's testimony was quoted in numerous newspapers, including the Arkansas Democrat-Gazette, Atlanta Journal and Constitution, Chicago Sun-Times, Commercial Appeal (Memphis, Tennessee), Los Angeles Times, New York Times, Record (Bergen County, New Jersey), Richmond Times Dispatch, San Francisco Chronicle, San Diego Union-Tribune, Times-Picayune, USA Today, and Washington Post (November 9 and 10).

Professors Lisa Bernstein and Sunstein discussed the recently formed Center on Civil Justice at the Law School in a Chicago Sun-Times article. The Center, founded by Sunstein, studies how written civil laws are applied in practice (November 10).

Epstein was quoted in an article about Chicago's lawsuit against gun dealers in the *Economist* (November 21). Epstein noted that if Chicago hoped to win the case they would have to prove "a rather elaborate chain of causation."

Professor Randal Picker was cited in an article in the Chicago Sun-Times regarding a recent bankruptcy involving a lien placed on a building by the general contractor (November 25). Picker noted that while bankruptcy courts typically give high priority to liens, there was an issue of whether a lien could be filed after bankruptcy was filed.

Professor Dennis Hutchinson's book, *The Man Who Once Was Whizbang White*, was selected as one of the 10 most notable political books of 1998 in a Chicago Sun-Times article (November 28). The book was called "a masterful study of the college and professional football legend who became John F. Kennedy's first appointee to the U.S. Supreme Court."

**December**

Professor Joseph Isenbergh published an op-ed piece in the Chicago Tribune concerning the use of censure in the Clinton impeachment hearings (December 11). A Chicago Daily Law Bulletin article also featured Isenbergh's theory about impeachment (December 4).

Professor Tracey Meares was quoted in an article about the City of Chicago anti-gang littering ordinance in the Chicago Tribune (December 8). She was also quoted in an on-line story by ABCNews.com (December 9). Meares was one of several Chicago professors who filed briefs in the case that was heard by the U.S. Supreme Court in December.

The Chicago Tribune published an op-ed piece by Sunstein, who discussed the flaws of the impeachment proceedings, warning that "for one of the few times in our history, the constitutional design, and especially the framers' carefully devised system for impeachment, appear to be in some jeopardy" (December 16).

The Wall Street Journal ran an op-ed piece written by Epstein titled "Congress's Copyright Giveaway" (December 21).

Professor Martha Nussbaum's book, *Sex and Social Justice*, was reviewed in the December issue of Kirkus Reviews and Publishers Weekly (December 21). Publishers Weekly cited Nussbaum as "a deep thinker, and one of the best" and called the book "the ultimate primer on, and a major advance in, feminist thought." Kirkus called the book "brilliant" and praised Nussbaum for "combin[ing] feminist theory and an internationalist perspective to fashion a stunning defense of justice."

Professor Alan Sykes appeared on "The News Hour with Jim Lehrer" in a piece pertaining to the lawsuit against gun manufacturers filed by the City of Chicago (December 23). Sykes noted that the city's defense—using a public nuisance law to sue gun manufacturers—was a shaky strategy, observing, "we don't ask Jack Daniels to make sure that its bourbon isn't sold to alcoholics by liquor store owners who can see somebody has had too much through the years."

USA Today quoted Sunstein in an article discussing what the public might view as the U.S. Supreme Court's tendency to steer clear of handling down decisions on controversial topics (December 29).

The Associated Press quoted Professor Saul Levmore in a story about the settlement of a lawsuit by Pizza Hut over a hate crime. The story ran in newspapers across the country, including New York; St. Louis; Sacramento, California; Dayton, Ohio; and Greensboro, North Carolina (December 30).

Sunstein and his dog Perry, a six-month-old Rhodesian Ridgeback, appeared on CNN's program "Burden of Proof" (December 31). "They had been calling me for a long time to do a show on impeachment, and I told them I would only do a show if my dog was on also," Sunstein said. "He was a big hit. The director told me they had calls from all over the country about how great Perry was." The topic of discussion was not impeachment, but whether people can sue airlines for the treatment their pets receive while traveling.

**January**

The Chicago Daily Law Bulletin ran a front-page story about the appointment of Daniel Fischel as Dean of the Law School, calling the appointment "the latest in a series of new administrative and faculty hires this academic year who will help steer the institution's course into the next millennium" (January 5). The Chicago Sun-Times also announced the appointment of the new dean (January 18).
During the impeachment hearings against President Clinton, Isenbergh's impeachment theory gained popularity with the media throughout the month of January. In print, Isenbergh was cited in such diverse publications as the Boston Globe, Chattanooga Times, Chicago Tribune, Connecticut Law Tribune, Detroit News, Bangor Daily News, Detroit Free Press, Idaho Statesman, International Herald Tribune, National Journal, New York Law Journal, New York Times, Plain Dealer, Post and Courier (Charleston, South Carolina), Seattle Post-Intelligencer, Star Tribune (Minneapolis, Minnesota), States News Service, USA Today, and Washington Times. In addition, Isenbergh's work was cited on two CNN broadcasts and National Public Radio, and Isenbergh was interviewed by the Fox News Network.

The Washington Post quoted Hutchinson in an article about the role of Chief Justice Rehnquist in the impeachment trial of President Clinton (January 7). Newspapers around the country and world picked up the story, including the International Herald Tribune and newspapers in Memphis, Tennessee; Raleigh, North Carolina; and Austin, Texas (January 8).

In honor of the Dr. Martin Luther King Jr., holiday, Professor David Strauss appeared as a guest on Chicago's public radio station, WBEZ. Strauss discussed how the interpretation of the Bill of Rights has changed since the civil rights movement of the 1960s (January 24).

Publishers Weekly ran a review of a book co-authored by Sunstein, The Cost of Rights (January 11). The reviewer commended Sunstein and his co-author, Stephen Holmes of Princeton University, for their ability to "argue persuasively that all rights are political."

**February**

The National Law Journal featured Chicago law students who work for the MacArthur Justice Center in its suit against the "supermax" prison for cruel and unusual punishment of mentally ill prisoners (February 1).

The New York Times published an op-ed piece written by Strauss titled "Indicting the President" (February 2). Strauss helped represent President Clinton before the U.S. Supreme Court in the case Clinton v. Jones.

The Christian Science Monitor quoted Sunstein in an article about the historic impact of the House of Representatives' vote for impeachment against President Clinton. "This could make impeachment a more frequent and available remedy for opponents of the president," he said (February 4).

Professor Stephen Schulhofer was quoted in both the New York Times and the Chicago Tribune. The Times quoted Schulhofer in a story regarding fallout from the Clinton impeachment scandal, while the Tribune quoted his research regarding confession rates of criminal suspects in a commentary by columnist Stephen Chapman (February 14).

Earlier in the month, the Madison Capital Times ran an extensive story about his book, Unwanted Sex. An op-ed piece written by Sunstein appeared in the New York Times (February 17). The piece, which was picked up the following day by the Seattle Post-Intelligencer, discussed the Independent Counsel Act.

Nussbaum published an article in the New Republic, "The Professor of Parody," in which she discussed the defeatist attitudes in academic feminism (February 22).

**March**

The National Law Journal published an article by Schulhofer in which he discussed the flaws of a recent appeals court decision regarding Miranda's rights (March 1). "I'm really quite stunned," said Epstein, quoted in regards to an almost $30-million personal injury jury award in an article that appeared in the Chicago Tribune (March 2). "I thought juries had more sense than that."

The Chronicle of Higher Education reviewed Sunstein's book, One Case at a Time. The book "reflects a growing belief among liberal scholars that the judiciary is not an appropriate vehicle for social change" (March 9).

The Chicago Tribune quoted Locke Bowman, Director of the MacArthur Justice Center, in several articles about the death penalty in Illinois (March 11 and 18). Bowman was one of 322 lawyers who urged Governor George Ryan to establish a special commission to study the death penalty and make recommendations for improvement. Bowman also penned an op-ed piece for the Tribune about the death penalty (March 14).

The New York Times reviewed Nussbaum's book, Sex and Social Justice, describing it as "highly readable, and very engaging. It is elegantly written and carefully argued" (March 14).

Professors Jack Goldsmith and Gidon Gottlieb both were quoted in New York Times articles concerning Kosovo. Goldsmith discussed the international law ramifications of the NATO intervention (March 27), and Gottlieb was quoted in an article regarding the treaty Convention on Prevention and Punishment of the Crime of Genocide (March 31).

In the first in a series of faculty-written essays about the future, Provost and former Law School Dean Geoffrey Stone published an op-ed piece in the Chicago Tribune. The piece, titled "What If America Had Only One Mixed Race," is an imaginary Supreme Court decision from the year 2101 (March 30).

**April**

The new entrepreneurship clinic at the Law School, the Institute for Justice, was featured in an article in Crain's Chicago Business (April 12). The article quoted both Director Patricia Lee and then-third-year student Miluska Novota.

The Chicago Tribune published a commentary by Sunstein that discussed the needs and benefits of paying taxes (April 14). Sunstein was also quoted in News & Record and the St. Louis Post Dispatch editorials discussing how the Independent Counsel Law should not be renewed (April 19).

Professor Stephen Schulhofer discussed his book Unwanted Sex on Chicago's public radio station, WBEZ (April 28). His research was also featured in stories in the April and May issues of Seventeen magazine.

**May**

Sunstein's One Case at a Time was reviewed in the Washington Monthly by Abner Mikva, '51 (May 1). "Part of what makes the book remarkable is that such an approach is not what academicians usually favor," Mikva wrote. The New York Times also reviewed Sunstein's work, calling it an "admirable book" (May 30).
Schulhofer was quoted in an article about bullying in the office in Mother Jones (May 1). He noted that while a proposed harassment law to prevent “bullying” and promote people being treated fairly in the office was not a radical idea, such legislation might be so broad as to be considered unconstitutionally vague.

Professor Emily Buss was interviewed for the CBS Evening News in a discussion of the responsibility of parents when children commit crimes (May 2). Buss stated that “imposing liability on parents could easily drive a wedge between parents and children where we most care about maintaining and shoring up that relationship.” The segment was rebroadcast on the CBS Morning News the following day.

Buss was also quoted on the same topic in the Chicago Sun-Times (April 28).

The New York Law Journal quoted Picker in an article about bankruptcy and holding financial advisors liable (May 6). He stated that a recent $185-million settlement by Ernst & Young Jones Show,” which resulted after one guest killed another (May 9). Sunstein commented that the U.S. Supreme Court had not resolved the questions that arose in the Jones case or from those who claim harm arising from media portrayals of violence. “The lower courts suggest there are serious First Amendment issues” involved, Sunstein said.

Schulhofer was quoted extensively in a Chicago Tribune article concerning a sexual harassment case in Cook County (May 7). Schulhofer discussed the standards for harassment and how companies have tried to incorporate regulations to prevent harassment but noted that many of those regulations have been challenged as improper interference in employees’ personal lives.

The Chicago Tribune quoted Sunstein in an article about the $25-million damage award against “The Jenny.” Sunstein commented that a bankruptcy trustee that it mishandled a clothing retailer’s corporate restructuring will likely spur other ailing companies to attempt to hold their financial advisors liable.

Schulhofer was quoted in a Chicago Tribune article about the Chicago suburb of Cicero’s controversial efforts to curtail gang activity (May 12). “What you worry about is when something like this gives them (the town) the power to sweep every Latin kid off the street,” Schulhofer said, adding, “To prohibit these people (named in the suit) from appearing in public with one another—that’s an extraordinary restriction of freedom.”

The New York Times reported that Nassbaum spoke at the Bard College commencement in Annadale-on-Hudson, New York (May 23). Nassbaum encouraged the graduates to seek out “experiences of artful pain,” as a way to “combat moral blindness and shape citizenship” in order to “uncover our own weakness and acquire new motives to treat others decently.”

Meares was quoted in an article relating to the violence on the Jerry Springer Show in the Christian Science Monitor (May 26). “We expect that police should exercise their discretion when there’s a serious social cost to the behavior,” she said, adding that in the case of the Springer show, the cost was validating violence on national TV.

The Chicago Tribune featured a profile of Catharine MacKinnon and her battle to correct misperceptions about her scholarship (May 30). “During her 25 years in the public eye, MacKinnon, the country’s foremost feminist legal scholar, has hardly been a stranger to controversy.” Among the misperceptions discussed in the profile was the fact that MacKinnon has never said the words most often attached to her; those words are, variously, “all sex is rape,” “all men are rapists,” or in the latest incarnation, “all sex is sexual harassment.”

June

Professor Albert Alschuler was quoted in an article in the Chicago Tribune about rules of evidence in a murder case. Alschuler discussed the use of evidence gleaned from plea negotiations and obtaining new DNA samples in light of prior samples that were perhaps taken illegally (June 7).

National Public Radio and the New York Times quoted Strauss in regards to the use of stun belts on prisoners. Strauss discussed the lack of widespread legal consensus on the use of the belts as cruel and unusual punishment, noting that “the abuse has to be pretty clear before the courts will step in and prevent the authorities from doing something” (June 8).

Schulhofer was quoted in several newspapers regarding the U.S. Supreme Court’s decision to strike down the City of Chicago’s anti-loitering law (June 26). Schulhofer said, “There are five justices united on any agenda—and that in itself is remarkable,” but he did note that, on the last day of the term, three federalism cases placed sharp new curbs on the ability of Congress to make federal law binding on the states.

Sunstein’s One Case at a Time was described as “a stellar work of scholarship” in a review in the Legal Times (June 28).

July

The Chicago Daily Law Bulletin reported on the Guardianship Reform Project, aimed at reforming the state’s adult guardianship system. The Project is bringing together a task force, chaired by Clinical Professor Mark Heyrman, to propose systemic reforms (July 2).
In reporting on the use of civil lawsuits against hate groups such as the World Church of the Creator, the Chicago Tribune turned to Alschuler for an explanation of the difference between constitutionally protected and unprotected speech (July 12). The Tribune also quoted Alschuler regarding uses of immunity when reporting on the city's handling of the shooting of LaTonya Haggerty. The city granted immunity to two of the four police officers involved. Alschuler indicated that granting immunity can be "a good way around the blue wall of silence" (July 14).

The St. Louis Post-Dispatch reported that the MacArthur Justice Center, led by Locke Bowman, together with the Northwestern University Legal Clinic, petitioned the state Supreme Court to order stringent procedures to preserve scientific evidence. The petition cited several cases in which it claimed that the destruction or loss of evidence prevented scientific testing that could have provided decisive evidence (July 20).

An op-ed piece in the San Diego Union-Tribune about the upcoming presidential election and the federal judiciary cited Sunstein's argument that "judicial activism on the part of conservative judges is a much more serious problem" than activism by liberal judges. Sunstein indicated that "some Reagan and Bush appointees have proved far too willing to invalidate decisions made by Congress and the executive branch." (July 26).

The Financial Times of London reviewed Sex and Social Justice, indicating that "in these essays we get Nussbaum at her best" (July 24).

The Indianapolis Star reported that Kenneth Dam would arbitrate Indiana Pacers forward Jalen Rose's bid to become a free agent (July 21). Dam ruled in favor of the NBA's position that Rose could not be awarded status that had been eliminated under the current collective bargaining agreement (July 31).

August

An article in the International Herald Tribune about the use of the Internet to sell banned Nazi literature in Germany quoted Jack Goldsmith as an expert in international law (August 10). Goldsmith explained that, although there are already plenty of precedents for dealing with transnational transactions, law in this area is becoming more important because of the increase in such transactions facilitated by the Internet.

Garrett spent an hour discussing the implications of Buckley v. Valeo, which tied free speech to campaign spending, with Gretchen Helfrich on WBEZ Radio's "Odyssey" (August 19).

Epstein was quoted in an article on animal rights in the New York Times (August 18). The article was distributed by the New York Times News Service, and his query, "Would even bacteria have rights?" was widely republished by newspapers ranging from the International Herald Tribune to the Commercial Appeal of Memphis, Tennessee. He had the opportunity to expand on his views on television on "Rivera Live," guest-hosted by David Gregory, on a show dedicated to the topic: "Whether animals should have the same legal rights that humans do" (August 24).

One of Judge Posner's new books, The Problematics of Moral and Legal Theory, was reviewed in the New Republic, which found it "always stimulating, frequently brilliant, [and] occasionally laugh-out-loud" (August 23).

Judge Posner's other new book, An Affair of State: The Investigation, Impeachment, and Trial of President Clinton, drew a great deal of media attention. A New York Law Journal review called it "the most thoughtful and even-handed analysis to date of the legal and political crisis" (August 21). Judge Posner discussed it on CNBC's "Hardball With Chris Matthews" (August 27). In the New York Times, Andrew Sullivan's review described it as a "revitalizing digestive" after an event that "sits in the collective unconscious like some awful meal" (August 26). The same issue of the Times included a feature article about Judge Posner and his decision to write about the Clinton affair.

The St. Louis Post-Dispatch published an article about the MacArthur Justice Center's work on behalf of inmates at the Tamms Prison. Locke Bowman explained that the prisoners who were suing over inappropriate use of isolation at the prison were being charged with additional crimes in retaliation for bringing their lawsuit (August 21).

September

An article on the gun control movement in the American Prospect quoted Strauss, who said that the idea that the sale of guns to likely criminals is a public nuisance "is actually mainstream and straightforward"—much like anti-pollution ordinances (September 1). An adapted version of this article was prepublished in the Seattle Post-Intelligencer (July 29).

The Chicago Tribune consulted Mark Heyrman for an explanation of why the City of Chicago can try to fine Chicago Police Officer Serena Daniels while not admitting that she violated the standard of care she owed to the public when she allegedly shot LaTonya Haggerty (September 2). In another article, about Lee Robin's request to make unsupervised visits outside the Elgin Mental Health Center, the Tribune consulted Heyrman for information about the recidivism rate of mental health patients acquitted of serious crimes by reason of insanity (September 15).

Epstein's op-ed piece, "The Government's Selective Memory," which appeared in the New York Times, argued that "litigation is not the way to deal with the regulation of tobacco" (September 24). It was reprinted in the Houston Chronicle (September 26).

Schulhofer's defense of the Miranda warnings was quoted extensively in a New York Times article that analyzed recent attacks on the ruling by Professor Paul Cassells of the University of Utah and the U.S. Court of Appeals for the Fourth Circuit (September 26).
Books and Journals

Faculty

Richard Epstein
Principles for a Free Society: Reconciling Individual Liberty with the Common Good
Perseus Books, 1998

Drawing on classical political theory, legal history, and modern economic thought, Epstein defends the principles of limited government and considers timely topics: the use of norms and customs in setting legal rules; the appropriate spheres for both private and common property; the dark side of altruism in driving collective behavior; and the relative merits of public and private assistance to the poor.

R. H. Helmholtz and Reinhard Zimmermann, eds.
Itinera Fiduciae: Trust and Treuhand in Historical Perspective
Duncker & Humblot, 1998

This collection of essays traces the paths of the idea of “holding for others” or of holding property in a fiduciary capacity: itinera fiduciae. Articles analyze the use of trust and trust-like devices from ancient Rome to 20th-century Europe and North America.

David M. Estlund and Martha C. Nussbaum, eds.
Sex, Preference, and Family: Essays on Law and Nature
Oxford University Press, 1998

Seventeen philosophers and legal scholars offer illuminating commentary on sexuality, the family, and on the proper role of law in these areas. Each writer is aware of and often responding to the other contributors, so the book as a whole resembles a roundtable discussion—lively, sometimes contentious, but always interesting.

Stephen Holmes and Cass R. Sunstein
The Cost of Rights: Why Liberty Depends on Taxes
Norton, 1999

The simple insight that basic rights to property, speech, and religion are expensive reminds us that freedom is not violated by a government that taxes and spends, but requires it—and requires a citizenry vigilant about how money is allocated. In exposing some of our most cherished myths about rights, this book is bound to change the terms of our most critical and contentious political debates.
Martha C. Nussbaum

Sex and Social Justice
Oxford University Press, 1999

Growing out of Nussbaum’s years of work with an international development agency, this collection of essays charts a feminism that is concerned with the urgent needs of women who struggle with hunger, illiteracy, or unequal legal systems. Nussbaum argues for a universal account of human capacity and need, while emphasizing the essential role of knowledge of local circumstance.

Saul M. Olyan and Martha C. Nussbaum, eds.

Sexual Orientation and Human Rights in American Religious Discourse
Oxford University Press, 1998

Writers from within the Jewish community, the Roman Catholic church, Mainline Protestant churches, and African American churches explore the history, tradition, and moral stance of their communities on same-sex orientation and consider the legal and public policy implications of that stance.

Susan Moller Oken; Joshua Cohen, Matthew Howard, and Martha C. Nussbaum, eds.

Is Multiculturalism Bad for Women?
Princeton University Press, 1999

Feminist Susan Moller Oken and 15 thinkers about feminism and multiculturalism explore the conflict between commitment to gender equity and respect for the customs of minority cultures or religions that promote such practices as forced marriage, female genital mutilation, and unequal rights of ownership.

Stephen J. Schulhofer

Unwanted Sex: The Culture of Intimidation and the Failure of Law
Harvard University Press, 1998

Stephen Schulhofer shows the need to refocus our laws against rape and to create a new system of legal safeguards against interference with sexual autonomy. With vivid examples, Schulhofer shows that recent reforms of rape and sexual harassment law are overrated and inadequate. His proposals for a radically different approach hold the promise of genuine respect and effective protection for the sexual autonomy of both women and men.

Martha C. Nussbaum and Cass R. Sunstein, eds.

Clones and Clones: Facts and Fantasies About Human Cloning
Norton, 1998

Since scientists succeeded in creating “Dolly” the sheep from an adult mammal, the implications and possibilities of cloning have hit closer to home. In this book, scholars and writers from a range of disciplines grapple with the prospect of man-made life with varying degrees of alarm, disgust, grief, calm, ambivalence, and humor.

Geoffrey R. Stone, Louis Michael Seidman, Cass R. Sunstein, and Mark V. Tushnet

The First Amendment
Aspen Law & Business, 1999

The First Amendment is the most comprehensive casebook on free speech law to be published to date. The book introduces first amendment doctrine and places it in historical and social perspective, allowing readers to explore questions about the appropriate roles of courts and legislatures in developing fundamental law.
Cass R. Sunstein
One Case at a Time: Judicial Minimalism on the Supreme Court
Harvard University Press, 1999

Sunstein explores and defends the Supreme Court's tendency to decide one case at a time, avoiding broad rulings on issues ranging from the legitimacy of affirmative action to the "right to die." In doing so, the Court has fostered, rather than diminished, public debate on these difficult topics. An authoritative guide to the Supreme Court, the book offers a new understanding of the American Constitution.

Richard A. Posner
The Problematics of Moral and Legal Theory

Richard Posner characterizes the current preoccupation with moral and constitutional theory as an evasion of the real need of American law, which is for a greater understanding of the social, economic, and political facts out of which great legal controversies arise. Posner advocates a rebuilding of the law on the pragmatic basis of open-minded and systematic empirical inquiry and the rejection of cant and nostalgia.

Senior Lecturers

Dennis Hutchinson
The Man Who Once Was Whizzer White: A Portrait of Justice Byron R. White
Free Press, 1986

Before he became one of the longest-serving U.S. Supreme Court justices, Byron R. White was Whizzer White: a scholar-athlete and an American hero. In 1962, President Kennedy nominated White to the Supreme Court, calling him "the ideal New Frontier judge." White went on to dissent in Miranda v. Arizona and Roe v. Wade. The book is based on archives and nearly 200 interviews with White's former law clerks and colleagues.

Richard A. Posner
An Affair of State: The Investigation, Impeachment and Trial of President Clinton
Harvard University Press, 1998

Richard Posner presents a balanced and scholarly understanding of the Clinton-Lewinsky crisis that also has the immediacy of journalism. He clarifies issues in the investigation by Independent Counsel Kenneth Starr and the impeachment proceeding. He examines the place of impeachment in the American constitutional scheme and the procedural issues raised by both the impeachment in the House and the trial in the Senate.

Journals Published by The University of Chicago Law School

Faculty-Edited Journals

Crime and Justice: An Annual Review of Research
Michael Tonry, ed.

Crime and Justice publishes authoritative, comprehensive, and readable essays that summarize current knowledge on topical subjects. Most essays are proposed and commissioned either because a research subject has achieved a critical mass that can sustain systematic and searching examination or because a policy subject has captured the sustained interest of public and political minds.

The Journal of Law & Economics
Dennis W. Carlton, Sam Peltzman, Alan O. Sykes, and Richard A. Epstein, eds.

The Journal of Law & Economics explores the complex relationships between law and economics, focusing on the influence of regulation and legal institutions on the operation of economic systems. Although topically varied, articles are most often concerned with how markets behave and with the actual effects of governmental institutions on markets. Many of the articles, therefore, provide the basis for an informed discussion of public policy.
The Journal of Legal Studies

The Journal of Legal Studies is not a conventional law review but an interdisciplinary journal of theoretical and empirical research on law and legal institutions. Economists, political scientists, sociologists, and other social scientists, as well as legal scholars, contribute to the journal, which thus provides a meeting ground for various scholars.

The Supreme Court Review
Dennis J. Hutchinson, David A. Strauss, and Geoffrey R. Stone, eds.

The Supreme Court Review provides disinterested criticism and commentary on the work of the Supreme Court by law professors, political scientists, and historians. It is the leading faculty-edited journal on public law subjects in the nation; a recent study ranked it first among all 330 specialized law journals in the nation in the prominence of its contributors.

Student-Edited Journals

The University of Chicago Law Review
First appearing in 1933, The University of Chicago Law Review is published four times a year. The journal publishes articles, student comments, and book reviews on current legal issues and is edited by second- and third-year law students selected based on academic performance.

The University of Chicago Law School Roundtable
The University of Chicago Law School Roundtable is a journal of interdisciplinary studies devoted to works from legal and non-legal scholars. The journal publishes Roundtable symposium papers on special topics as well as articles and comments by professors and students that explore legal issues from the perspectives of disciplines such as economics, history, computer science, and sociology.

The University of Chicago Legal Forum
The University of Chicago Legal Forum is a student-edited journal published annually. Each volume examines, in a comprehensive and incisive manner, a single topic of current interest to the legal community. The articles, edited by students, are written by scholars who participate in a two-day symposium sponsored by the Legal Forum, in which they present and debate their conclusions.

Alumni


Alums Revive *Green Bag* and LIVEN UP THE LAW

*By Jeremy Bates*

Seeking to make a home for short, lively, and humorous writing about the law, a group of recent Law School graduates has revived the *Green Bag*, a legal periodical from the turn of the century. The modern *Bag*, now published quarterly, is nearing its two-year anniversary and bids fair to enable its editors—mostly members of the class of 1997—to continue the law review experience for decades if they so choose.

Here's hoping they will. The *Green Bag* is a law journal that one can read cover to cover, a cheerful omnium gathering of stylish writing and serious thinking.

To hear Ross Davies, editor in chief of the *Green Bag*, Second Series, tell it, the journal's regeneration was happenstance. "In the fall of my second year, I'd been doing a monster cite check in the library, so I took a break and went up to the fifth floor. I was wandering along, pulling law reviews off the shelf, and I come across this journal that makes a great deal of how it's short and entertaining. I'd come back from time to time to read it—it became the place I would go for a study break."

The journal worth a study break was the first *Green Bag*: An Entertaining Magazine for Lawyers, published in Boston from 1890 to 1914. And one can see what might have caught Davies's eye: articles on such topics as hypnotism and the law, slander in the Middle Ages, and "The Roman Emperor's Case Against the Christians." A piece on "Curious Wills" begins: "Frenchmen always have been more inclined to frivolity than we are in the disposal of their estates."

Davies says that, after reading the original *Bag* and editing the Chicago Law Review, his thirst for journalistic work was yet unquenched, but he had the notion of putting out a different kind of journal. David Gossett, '97, and Montgomery Kosma, '97, agreed. Law Review colleagues of Davies, they would swiftly become the revived *Bag*'s executive editors.

The students sought advice from Professors David Currie, Richard Epstein, Richard Helmholtz, and Dennis Hutchinson—a foursome that would later form the core of the *Bag*'s advisory board. There appears to have been a meeting of the minds. Currie recalls, "I told them I thought it was a fabulous idea—it would fill a real void in the legal scholarship world. There was no place where one could turn for short, entertaining pieces on the law. There was no place to park such pieces."

Thus the renaissance of the *Green Bag*. The editors permitted themselves no publishing hiatus: the first *Bag* appeared in the fall of 1997. And they posted a number of heretical theses in fine print below the masthead:

"EDITORIAL POLICY: We are committed to publishing authors' ideas in their own words, which means we don't fool around much with either.

"SUBMISSIONS: We welcome unsolicited manuscripts, preferring submissions via e-mail to editors@greenbag.org. We also accept diskettes, and will consider hardcopy submissions in cases of hardship. We accept material that is short, clear, interesting, and law-related—up to 5,000 words, and 0 to 50 footnotes. We especially encourage the submission of poetry, anecdotes, cartoons, and other miscellany.

"DEALING WITH AUTHORITY: Authors may use whatever citation form they prefer; we will make changes only where necessary for our readers' ease or to keep footnotes from looking like goulash."

Like most law reviews, the first issue featured articles—but short ones—by Chicagoans Cass Sunstein (on the Dred Scott case) and Richard Epstein (on the Commerce and Takings Clauses) and by Georgetown constitutionalist Mark Tushnet (on assisted suicide), among others. Unlike many law reviews, the first issue had book reviews that were not themselves book-length. And it departed from the usual format in other ways as well. It contained a conversation with former Assistant Attorney General Theodore Olson about the separation of powers and the independent counsel statute.
In later issues, the Bag has interviewed former Watergate special prosecutor Archibald Cox about campaign finance reform, former Senator James Buckley on his multifaceted career of public service, and Ninth Circuit Judges Alex Kozinski and Stephen Reinhardt about aspects of the federal judiciary.

The editors also include a feature called "From the Bag," which aims to make available reprints of "hard-to-find yet historically important" material. Perhaps the juiciest morsel served up "From the Bag" was a debate between Louis Brandeis and Samuel Gompers on the merits of incorporation—and the associated legal liability—of labor unions. (The Boston Globe headline: "No, Thank You! Says Gompers").

Lastly, and indeed firstly too, the Green Bag literally brackets its serious material with lighter stuff, proving that legal humor is no oxymoron, at least in the Bag's "Ex Post" and "Ex Ante" pages. (You can take the editor out of Chicago...)

In the first issue, David Currie led off in Ex Ante with an apology for the journal's title, letting on that it refers to "that time-honored receptacle in which members of the legal profession traditionally carried their papers and law students their casebooks, even within the memory of some of us still living." Currie protests too much, for he himself carries his own green bag about Hyde Park, ensuring that the memory will live on.

The Ex Post page—a bit like "Shouts and Murmurs" in the New Yorker—has thus far specialized in doggerel, including the late Professor Brainerd Currie's classic ode to Rose 2d of Aberlone. First-year contracts students know Rose 2d as the bovine and miraculously fecund heroine of Sherwood v. Walker, the case of mutual mistake sans pareil. Rose herself beams out of the Bag in an illustration that captures her in what one might call an utterly self-satisfied mood.

For further humor, this past summer's issue of the Green Bag included a satirical account by Case Western Reserve's Erik Jensen of a fictional law professor's experiences as dean. A real-life dean, Michael Hoefflich of the University of Kansas, analyzed how 19th-century cigar wrappers portrayed lawyers. And in a more serious vein, Emory University's Morgan Cloud described his experiences in the former Yugoslavia. "He's our Peter Arnett," says Davies. "We aim to publish pieces on professors overseas, doing their thing"—whether it be writing constitutions, reforming tax codes, or dodging bullets.

The Bag has already achieved some influence in our nation's capital. The Washington Post's Supreme Court correspondent, Joan Biskupic, wrote a laudatory profile in the "Federal Page," which is a regular Post feature that tries to give the inside scoop to the Beltway's insiders. Biskupic quotes Justice Ruth Bader Ginsburg, a "loyal fan" of the Bag, as saying that "Green Bag can make even the most sober judge smile while learning." Biskupic breathlessly described the new journal as "suddenly the place to be for the hottest names in the legal profession."

The editors are modest about all this. They merely state that the Bag "aspires to dubious utility." And they are quick to credit their Board of Advisors with much of the journal's success. Davies: "Our advisors are a godsend. If it wasn't for Currie, Epstein, Helmholz, and Hutchinson, this thing would not be here. Part of what makes Chicago a great law school is that the professors are very accessible. They're supportive of student ideas and students tilting at windmills."

It may overstate the case to call this journal, as one of its editors did, a "law review of the people"—if the Bag is that, the people have suddenly become erudite and refined. But the Bag certainly is a rare aves flying to a more enjoyable destination than the jumbo-jet journals of today's legal academy. And what the Bag's language columnist would make of that metaphor, one hesitates to think.

Jeremy Bates, '01, is a student at the Law School.

The Green Bag is available for $35 a year by writing to P.O. Box 14222, Cleveland, Ohio 44114, or by visiting its Web site at www.greenbag.org.

"I told them I thought it was a fabulous idea—it would fill a real void in the legal scholarship world. There was no place where one could turn for short, entertaining pieces on the law."

David Currie
THE VACCINE AGENT

By David P. Currie

Editor's note: This article originally appeared in the spring 1998 issue of the Green Bag. Reprinted with permission.

Browsing in the Statutes at Large the other day, I came across the following Act of Congress, adopted February 27, 1813:

[T]he President of the United States . . . is hereby authorized to appoint an agent to preserve the genuine vaccine matter, and to furnish the same to any citizen of the United States, whenever it may be applied for, through the medium of the post office . . .

Packages of vaccine dispatched by the agent, and letters to or from him on the subject of vaccination, were to "be carried by the United States' mail free of any postage."

News to you? News to me. Where did this remarkable provision come from? Where did Congress imagine it got the authority to enact it?

Medical historians have answered the first question. Edward Jenner published his famous paper on the efficacy of cowpox inoculation in 1798; Benjamin Waterhouse performed the first vaccination in the United States two years later. James Smith, a Baltimore physician, opened a vaccination clinic there in 1802. In 1809 he was made vaccine agent for the state of Maryland. In 1811 he petitioned Congress for "patronage and aid . . . in a plan to introduce [the genuine vaccine matter] into general use, in the District of Columbia."

Nothing came of this modest proposal, but two years later Smith hit paydirt when President Madison appointed him Vaccine Agent for the whole country under the 1813 law.

The second question is not so easy to answer, for the Annals of Congress contain no record of debates on the bill. Reported to the House by the Committee on Post Office and Post Roads, it was endorsed by the Committee of the Whole House and passed over unspecified objections. The Senate approved it within five days.

Subsequent history casts a little light, but not very much, on the question of congressional authority.

In 1816, three years after his appointment, Dr. Smith petitioned Congress for additional legislation "to give that further and more ample encouragement to vaccination which the welfare and happiness of our country so imperiously demand." A select committee reported a bill requiring the agent to furnish vaccine free of charge to anyone writing to request it and providing for the first time that he should be paid a salary. An amendment from the floor made it the duty of the Secretaries of War and of the Navy to vaccinate soldiers and seamen. In light of the impending end of the session and "the doubt whether Congress could constitutionally appropriate money for such purposes," however, the bill was indefinitely postponed.

Undaunted, Smith renewed his petition the following December, asking that he be empowered to provide free vaccine to Army and Navy surgeons and to all other citizens who might apply. Another committee obliged with another bill, complete with salary. There was no reported constitutional objection as the House debated the amount of compensation. On third reading, however, Representative Daniel Cady of New York opposed the passage of the bill, as contemplating an interference by the United States in the duty of the States. He had never heard, he said, that the State of New York, or any other State, had been so unmindful of the health of the people, as that Congress ought to take it into their charge. So far as respected the Army and Navy, the United States ought to act on the subject; but, for the rest, it ought to be left to the State Legislatures.
Charles Atherton of New Hampshire echoed Cady's objection a few days later. Army and Navy doctors needed no help from a special agent to vaccinate their men. When it came to providing vaccine for the general public, the difficulty was more serious: He believed the people would view it with some degree of jealousy and alarm; they would inquire, with some surprise, what article in the Constitution gave to Congress the power of levying taxes for the support of agents in the different departments of the healing art?

John Jackson of Virginia agreed that Congress had no authority to enact the bill. The Annals then report as follows:

Mr. Condict and Mr. Wright replied to this objection—the first infringing the Constitutional authority for the act from its connection with the Army and Navy; the latter from the charge of the general welfare given to Congress, to which this measure certainly would contribute.

The bill was then defeated by a vote of 57 to 88. No attempt was made at this time, however, to repeal the original statute creating the vaccine agency, although the arguments of Cady, Atherton, and Jackson seemed to cast doubt on the constitutionality of that provision as well.

It is a pity that the speeches of Messrs. Condict and Wright were not reported more fully, for they seem to have been the first attempts to explain the source of federal authority in this field.

Representative John Floyd of Virginia, a physician, saw no constitutional problem because "[the object of the bill was to aid in the eradication of the smallpox from our country—an object which all must admit to be not only innocent but laudable." Joseph Kent of Maryland, the sponsor, added that there was no need for amendment because the bill already provided that the Institution was to be established in the District of Columbia. He made clear, however, that it would be authorized to provide vaccine to users throughout the country, and Livermore was not satisfied: "It was a question whether Congress had the power to extend a corporate authority into the States." When the proposal reached the Senate, Roberts and Talbot objected again "that the bill proposed to incorporate an institution without limiting it to the District," and Roberts expressly doubted its constitutionality. On Talbot's motion the bill was tabled, and it never reappeared.

In 1820 Dr. Smith tried a new tack, asking Congress to grant a charter of incorporation to a "National Vaccine Institution," supported by private donations, that would provide the vaccine wherever it was needed. Defended on the ground that it would cost the Treasury nothing, the resultant bill encountered rough weather in the House, where New Hampshire's Arthur Livermore moved to limit its operation to the District of Columbia.

There was not a general agreement of opinion as to the power of Congress to establish corporations to pervade the United States; but there was no doubt of its power within the District, to which therefore he wished expressly to limit the corporate authority proposed to be conferred by this bill.

In 1821 Dr. Smith mistakenly sent smallpox scabs instead of vaccine to a deputy in Tarborough, North Carolina, and several people died. Representative Hutchins Burton (of North Carolina) loudly demanded that a committee inquire into the expediency of repealing the statute under which the Vaccine Agent had been appointed. Noting that vaccination had eliminated the disease in Denmark, Representative Floyd's committee concluded there was no cause for modifying the law. Burton persisted, and a second committee, this time under his leadership, recommended repeal. The franking provision created a "monopoly"; a federal agency was necessarily swamped with orders and prone to terrible errors; the subject seemed, "in a peculiar manner, to appertain to the municipal authorities in the several States."

Burton expanded on the committee report during the House debate. "The subject," he said, "was one strictly of internal policy, not properly within the province of this Government but of the several States, whose duty it was to regulate every thing relating to health and police generally." Agreeing that "the State governments were the most competent to legislate upon these subjects," Condict argued that Congress had the right to help them by distributing vaccine.

When the law now proposed to be repealed was first enacted, in 1813, it was the opinion of many respectable members that the best plan would be to give the agent a salary to
compensate him for his services, and cause him to distribute the matter gratuitously to every applicant. Others, however, doubted the Constitutional power of Congress to apply the public money in this way, and the law now proposed to be repealed was passed.

William Eustis of Massachusetts agreed with Burton: The entire subject should have been left to the states. This Government . . . was instituted to collect revenue, to provide for the public defence, and pay the public debts. How far it had departed from that limited sphere he would not now inquire, but it was certainly at fault when it undertook to regulate any part of the practice of medicine.

The House voted 102 to 57 to repeal the law, and the Senate agreed. President Madison had fired Smith a few weeks before.

Thus Congress's intrepid foray into the field of public health came to an ignominious end. Balanced against a conspicuous handful of accidental deaths was the quiet saving of a great many lives; Condict estimated that the statute had made it possible to vaccinate anywhere from 50,000 to 100,000 people. Demagoguery was responsible for repeal. But demagoguery was supported, as it often is, by constitutional arguments. And this time the demagogues were right; Congress had exceeded its powers.

Let us take the easiest argument first. That the object of the legislation was "laudable," as Floyd said, did not bring it within congressional authority; the Federal Government is one of enumerated powers. Condict's invocation of the war powers was convincing enough in its place; authority to "raise and support armies" and to "provide and maintain a navy" plainly empowers Congress to keep soldiers and sailors healthy. It cannot justify providing vaccine to the population at large, however, without recourse to the embarrassing chain-of-consequences type of argument.
that led the Supreme Court a century later to uphold a prohibition of alcoholic beverages as a defense measure. As sober workers produce better guns, healthy mothers produce more future soldiers, and healthy young men make better recruits. Such an argument, as the Court itself recently acknowledged, makes a mockery of the principle of limited powers.

A similar commerce-clause argument, which was never made, would encounter similar objections.

That the bill to establish the vaccine agency came from the Committee on Post Office and Post Roads underlines its connection to the postal power. Authority to "establish post offices and post roads" had long been understood to include setting postal rates, even at zero. But the statute did more than confer the franking privilege on a private individual; it made him a federal officer and directed him to preserve and distribute vaccine. Congress's power is to provide for carrying the mail, not for generating it; if it were otherwise, Congress could regulate the entire economy on the basis of this trivial grant of authority.

Representative Kent defended his unsuccessful incorporation bill on the ground that the proposed National Vaccine Institution was to be located in the District of Columbia. This was a familiar dodge; President Washington had urged Congress to set up in the capital both a national university and an agency to promote agriculture. But Livermore was right to smell a rat. The power of "exclusive legislation" over the seat of government was meant to enable Congress to govern the District, not to evade the limitations of federal authority. Neither the incorporation bill nor the original statute was a local measure; their avowed purpose was to protect public health throughout the country.

although as Madison had argued a strong case could be made that the clause was intended only to designate the source of funds with which to finance expenditures authorized by other provisions, as similar language in the Articles of Confederation had unmistakably done. But as both Kent and Condict insisted, neither the incorporation proposal nor the original statute involved the expenditure of federal funds; and thus neither could be justified as an exercise of the spending power. What both Representatives regarded as mitigating the incursion on state rights eliminated the sole plausible basis of federal authority.

It is ironic that President Madison signed the vaccine bill barely four years before his celebrated veto, for want of congressional power, of a bill to establish a fund for the construction of roads and canals—a bill supported by respectful arguments under the commerce, postal, and war powers as well as by Hamilton's interpretation of the spending power. Like Congress, the normally eagle-eyed guardian of state interests seems to have been asleep at the switch in 1813. But the Tarboro disaster, which brought about repeal for all the wrong reasons, reduced the Vaccine Agent from a precedent to an aberration. Congress ended by recognizing that its enthusiasm had outrun its authority, and many moons would pass before it would leap so boldly into the field of public health again.

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We come at last to what the modern reader has been thinking of all along: the general welfare clause of Article I, § 8, which Representative Wright invoked in support of the unsuccessful attempt to pay the agent for his services. Even Alexander Hamilton conceded that this provision merely specified the purposes for which tax revenues could be collected and disbursed, since a general power to promote the general welfare would leave next to nothing beyond federal authority. President Monroe would soon accept, and the Supreme Court would much later endorse, Hamilton's view that Congress could spend for anything that benefited the country as a whole, as vaccination did—
Portraits of the Alumni Annual Dinner

The 1999 Law School Alumni Annual Dinner, held on May 13, served up news, honors, camaraderie, and a firsthand account of history in the making.

It was the first Annual Dinner that Daniel Fischel, '77, presided over as Dean. "I'm proud to be the Dean, but even prouder to be an alum," he reported in his State of the Law School address to more than 400 alumni and friends at the Grand Ballroom of the Westin River North Hotel.

Law School Alumni Association President Gretchen Winter, '83, acted as master of ceremonies. She introduced Provost and former Law School Dean Geoffrey Stone, '71, who regaled the audience with a history of athletics at The University of Chicago, from the Big Ten Monsters of the Midway to the "very different, but more appropriate" recent Division III championships.

Dinner honors Gerald Ratner

During the dinner, the Law School Distinguished Alumni Award was presented to Gerald Ratner, Ph.D. ’35, J.D. ’37, the senior partner at Gould & Ratner in Chicago. Ratner, a scholar-athlete in his student days, recently gave the University $15 million to fund an expansive new athletic complex. In accepting the award, Ratner attributed his success to an excellent education, colleagues, family support, and "my $20-per-week salary, plus 62 years of inflation."

Professor Cass Sunstein, the Karl N. Llewellyn Distinguished Service Professor of Jurisprudence, closed the evening with a firsthand account of the workings of Congress and the media as he spoke on "Lessons from a Debacle: From Impeachment to Reform." Sunstein had written an article in 1998 titled "Impeaching the President." As the controversy of the Clinton impeachment raged, he was called upon to testify before the House Judiciary Committee, consulted informally by members of Congress on both sides of the aisle, and interviewed by innumerable reporters.

Sunstein was disillusioned by a Congress for which "when the stakes are high, the Constitution becomes small." He concluded, though, that "considerable goodwill comes out of these alternately tragic and ridiculous events," in the nature of "reforms and 'arms control agreements' that cohere and maintain faith with the founding generation's institutional sense and commitment to a deliberative conception of democracy."

All this and chocolate mousse, too.
James Hormel becomes AMBASSADOR TO LUXEMBOURG

James C. Hormel, '58, was sworn in as the United States Ambassador to Luxembourg in the Benjamin Franklin Room at the Department of State on June 29 in the presence of Secretary of State Madeleine Albright, Senator Diane Feinstein, Senator Edward Kennedy, and Dean Daniel Fischel. Said Dean Fischel, "It was wonderful to see our own Jim Hormel—an alumnus and former Dean of Students—taking his oath of office and preparing to represent our country. I was proud to be there."

The ambassadorship is only the latest phase of Hormel's long career in public service. He has been active in foreign relations as an Alternate Representative of the U.S. Delegation to the 51st United Nations General Assembly and a Member of the U.S. Delegation to the 51st United Nations Human Rights Commission in 1995. He also served on the Western States Regional Selection Panel for the President's Commission on White House Fellowships in 1995 and 1997. In 1995, he participated in the President's Conference on the Pacific.

Over the last decade, Hormel has been instrumental in developing resources for direct service organizations that meet the needs of persons with HIV and AIDS in San Francisco, including the AIDS Emergency Fund, Project Open Hand, the San Francisco AIDS Foundation, and Shanti Project. He also works on advancing gay rights and human rights on a national level as a member of the Board of Directors of the American Foundation for AIDS Research and the Human Rights Campaign Foundation.

Hormel has been a valued member of the University of Chicago community since he came to study at the Law School in the mid-1950s. In addition to serving as Dean of Students from 1961-1967, he has been a member of the Law School Visiting Committee since 1987, acting as Chair from 1991-1994. In 1992, he founded the University's Gay and Lesbian Alumni Association. Hormel's substantial philanthropic involvement at the University includes the establishment of the Law School's Hormel Public Service Program. His latest legacy to the Law School is his granddaughter, Heather Hormel, who enrolled as a 1L this fall.

Hormel is the first openly gay man to become a United States ambassador. The leadership he showed throughout the confirmation process is the culmination of his long-term commitment to promoting human rights.

In June 1999, Howard Krane, '57, completed his term as Chairman of the University's Board of Trustees. The Law School hosted a dinner on June 4, 1999, to honor and celebrate Krane's achievements. Dean Daniel Fischel welcomed the University Trustees and other guests to the Green Lounge, stating, "Howard Krane is one of the people who has made this university great."

In his role as Chairman, Krane drew on the intimate knowledge of the Law School and the University that he developed through more than 40 years of involvement—as a law student, a Bigelow Fellow, and a tireless volunteer. "When I first volunteered for the Law School in 1977," Krane remarked, referring to his chairmanship of the Fund for the Law School, "little did I know that it was the first step on a road that would lead me to the University's Board of Trustees."

Krane, who practices tax law and general financial and business counseling at Chicago's Kirkland & Ellis,
accomplished a great deal during his seven-year tenure as Board Chair, including overseeing the University’s successful capital campaign in 1991-1996. He looks forward to the ambitious building projects planned at the University for the next few years, including the Law School’s proposed master plan for its Centennial Capital Campaign. He will continue to serve as a member of the Board of Trustees after stepping down as Chair.

VISIONARY
Andrew Rosenfield continues his entrepreneurial ventures

Look to the place where higher education intersects with the future, and you are very likely to encounter Andrew Rosenfield, ’78. Rosenfield is pushing higher education into new territories today as an entrepreneur, an adjunct professor at the Law School, and a University of Chicago trustee. He heads UNext.com, which provides education aimed primarily at businesspersons via the Internet. Its stated mission is to “marry the world’s most respected academic scholars and institutions with the global reach and interactive capabilities of the Internet.” This summer, UNext announced that it had enlisted The University of Chicago, Stanford, Carnegie-Mellon, Columbia’s business schools, and the London School of Economics to provide it with course materials and faculty.

That announcement rocked not only the multibillion-dollar “distance learning” industry but also the higher education establishment. Financial Times said, “The implications of the deal have sent a shudder through the business school world.” MSNBC proclaimed that

the schools’ decisions to join UNext constituted “a signal that graduate schools fear being left behind as the Internet transforms education.” Eventually, Rosenfield expects the company to offer its own graduate and undergraduate degrees and to reach far into all the corners of the world.

Meanwhile, at the Law School, Rosenfield is reaching an extraordinary seminar on entrepreneurship this fall. Though his own entrepreneurial acumen might well suffice to carry the seminar, he has signed up other business superstars as guest presenters. The seminar is already being acclaimed as one of the great educational innovations at the Law School.

At a recent strategic planning meeting considering the Law School’s future, he pushed for the inclusion of a stronger entrepreneurial component to “cause the Law School to become the institution of first choice for those students who want to build businesses, run family business empires, work in the booming field of venture capital, work at McKinsey, Bain, BCG and the like, join Microsoft in a strategy position, and more.” Such a program, he said, “should have a global emphasis.”

Rosenfield launched his own entrepreneurial career early. When he was still a third-year student at the Law School, Rosenfield and two others invested $750 each to start a new business. The two others were professors Richard Posner and William Landes, giants of the law and economics movement. The company, Lexecon, initially provided consultants and expert witnesses to litigants in antitrust and regulatory cases and then branched out into other aspects of litigation support.

Shortly thereafter, Dean Fischel, who met Rosenfield while they were students at the Law School, joined the firm as well.

Lexecon blossomed, eventually reaching nearly 150 employees and becoming, in the words of the Wall Street Journal, “the Cadillac of firms that provide analysis and testimony.” Late in 1998, Lexecon was sold to an arm of Knowledge Universe, LLC, the company created by Oracle Corporation founder Lawrence Ellison and financier Michael Milken.

Lexecon reached a widely-reported $50 million settlement earlier this year in its suit against Milberg Weiss, Bershad, Hynes & Lerach. Rosenfield and Dean Fischel have pledged that the Law School will be a major beneficiary of the award.
MARLA MESSING
SCORES BIG
with One Billion Viewers

At first, no one expected Marla Messing, '89, to attract 658,000 spectators and one billion worldwide television viewers to women's soccer. But as President and CEO of the 1999 Fédération Internationale de Football Association (FIFA) Women's World Cup Organizing Committee, that is precisely what she did.

"When the event was awarded to the U.S., the mandate was to hold matches in small stadiums in one time zone—the East Coast," Messing explained. "They wanted it in 5,000- to 10,000-seat stadiums." Instead, Messing put the matches in large stadiums and in major markets across the country. "People thought we were crazy," she said.

Now, people regard Messing as a visionary. In Chicago, 65,080 people came to Soldier's Field to watch a Women's World Cup double-header: U.S.A. vs. Nigeria and Brazil vs. Italy. In Pasadena, the final match drew 90,185 spectators to the Rose Bowl—the largest audience ever to attend a women's sporting event. And the audience was not disappointed, as the U.S.A. beat China by one penalty kick in sudden-death overtime.

Messing is especially proud of the television ratings garnered by the Women's World Cup. Roughly 40 million viewers watched the final match, producing a rating of 13.3—4 percent more than the previous record of 12.8, which Messing herself had helped to produce for the 1994 Men's World Cup final.

Messing said that what she liked most about her role as President and CEO was the opportunity to take "something very small and exotic and bring it into the mainstream—creating a tremendous platform."

Marla Messing, '89, helped attract more than one billion viewers to the 1999 Soccer Women's World Cup.

MOVIE MOM
Nell Minow, '77,
Asks the Right Questions

Although Nell Minow's two careers—shareholder activist and maternal movie critic—appear entirely divergent to the casual observer, Minow, '77, insists that they are remarkably consistent. "In both of my careers, I want to make sure that the right questions get asked"—a trait she says she learned at the Law School. As a principal of Lens, she questions boards of directors. As the author of The Movie Mom's Guide to Family Movies (April 1999), she questions film audiences and filmmakers.

Minow joined Lens, a shareholder activist fund manager, in 1992, at the invitation of her colleague Robert Monks. Monks made her an offer that, as a new mother, she could not refuse—a three-day-a-week job that kept her working on the side of the "good guys" and allowed her to learn something new every day.
Together, they launched an investment firm that buys stock in underperforming, publicly-held corporations and then pressures boards of directors to improve management practices. Minow is now well known for asking tough questions on Lens's behalf—she once asked board members at Stone & Webster's annual shareholders' meeting why they did not own their own stock.

Minow's second career as the Movie Mom represents the confluence of many interests. Her enthusiastic yet critical approach to film was nurtured in childhood by her parents, Josephine Minow and former FCC Chairman Newton Minow. Her interest in writing was enhanced by an undergraduate concentration in English at Sarah Lawrence College. Her initial publication of movie reviews on a Web site in 1986 stemmed from her fascination with the Internet.

But it may be her desire to express her views on all of life's most important issues that served as the primary impetus for her recent book, "The movie book is about everything that I think about in the world—loyalty, making moral choices, why it's important to watch movies with your family. If I had been doing this a century ago, I would have been writing about Bible stories," Minow said. "But the lingua franca of 1999 is movies."

In her book, as in her work with Lens, questions play a central role. "Ask [your children] what the people who made the movie wanted them to think about the characters, and how they could tell," she suggests.

Elmer Johnson Promotes Professional Idealism at Aspen Institute

On June 2, Elmer W. Johnson, '57, became President of the Aspen Institute, where, for the last 10 years, he has been promoting "professional idealism in the age of brutal markets" as a member of the Aspen board.

"It's the perfect job for me," Johnson remarked. "It requires me to call on all of my life experiences," including many years in industry, substantial writing about policy issues, and his education at the Law School.

The Aspen Institute seeks to enhance leadership by bringing diverse individuals together to discuss classical texts and their meaning for today's society. "The fear in 1950 when Aspen was founded," Johnson explained, "was that as people develop more specialized knowledge and become more fractionalized, they lose sight of a broader vision, a moral vision. Aspen seeks to avert the danger of myopia"—a problem Johnson considers as relevant today as it was in the 1950s.

Over the past decade, Johnson has moderated a number of seminars at the Institute, including a Great Books-style executive seminar and others that focus on shaping the modern corporation. In each, he has taken a Socratic approach, leading a text-based dialogue and attempting to "be a good midwife" in the style of Walter Blum, his favorite Law School professor.

After law school, Johnson joined Kirkland & Ellis, becoming a partner in 1962. He served as General Counsel for International Harvester Company during its reorganization from 1981-1982 and as Special Counsel to the chairman of Ameritech in connection with the break-up of AT&T in 1982 and 1983. Then, from 1983-1988, he was responsible for legal, operating, and public affairs staffs at General Motors. There he held a number of positions, including executive vice president and director of the company, as well as member of the executive and finance committees of the board.

Johnson said that his five and a half years at General Motors caused him "to think more deeply about human values in the workplace. How do we make sure that man is the master and not the machine? How do we bring balance into our lives? Do we invest too much value in work? I did a lot of thinking about how to make the corporation a community where people develop and grow. I came to resent authoritarian management that crushed people rather than helping them develop."

Throughout the late 1980s and 1990s, Johnson has written many articles about the relationships between ethics and large corporations, the legal profession, capitalism, and public policy. As President of the Aspen Institute, he will insure that others continue to explore those connections as well.

LIFE IS SWEET

After several years practicing on Wall Street, Brian L. Colbert, '94, joined Hauser Chocolatier as General Counsel and Vice President of Marketing and Sales. Hauser, a gourmet chocolate retailer, is located in Westerly, Rhode Island. Here, Colbert hand-finishes mint truffles, one of Hauser's new products.
REUNION SNAPSHOTs

Whether they were five years out of law school, twenty-five, fifty, or somewhere in between, alumni returned to Hyde Park for their reunions in May with a common thought: “I can’t believe it’s been so long!” They became reacquainted with their classmates, hung out around the School, raised money for reunion class gifts, and learned what’s new and what hasn’t changed at their alma mater.

The reunion kicked off with the Alumni Annual Dinner on Thursday, May 13. On Friday morning, alumni revisited the Socratic method as they attended classes. At lunchtime, they gathered downtown for a forum featuring updates from the directors of the three legal aid clinics now housed in the new Arthur Kane Center for Clinical Legal Education: Randolph Stone for the Mandel Legal Aid Clinic, Locke Bowman for the MacArthur Justice Center, and Patricia Lee for the Institute for Justice Clinic on Entrepreneurship. This was followed by an architectural boat tour down the Chicago River and an all-class cocktail party at the Wrigley Building.

On Saturday morning, some alumni and their families took in a tour of the Museum of Science and Industry, while others stayed at the Law School for a town hall meeting with Dean Daniel Fischel. Then they broke into smaller groups for panel discussions with faculty members. Richard Epstein and Randy Picker discussed the Microsoft antitrust
case, Dean Fischel and Jill Hasday discussed sexual harassment laws, and Saul Levmore and Eric Posner discussed the relationship between law and progress. Next, the student a cappella group, Scales of Justice, entertained the crowd at lunch. That evening, alumni attended class dinners at restaurants chosen by their reunion committees.

The success of the reunion came as a result of the hard work and spirit of the reunion committees, especially the reunion chairs. They put in many hours planning the events and persuading their classmates to join the fun. From all of us, thanks!
Class Notes Section – REDACTED

for issues of privacy
IN MEMORIAM

1918
Mary Uhr

1919
Marjorie Hine

1920
Lucile Geldert

1921
Maurice Cohen

1925
Willis Overholser

1926
Emile Bloche

1929
Benjamin Greenbaum A. Louis Manason
William Powers

1931
Rudolph Frlick
James Hanley
Frederic Heineman
Delmar Olson

1932
Edward Lewisin
Frederick Sass
Leonard Schram

1933
Jeanette Blumenthal
Benjamin Brodsky

1936
Blanche Simmons

1937
Daniel Blake

1938
Roger Baid
Sheldon Bernstein
Robert E. Haythorne

1940
Irving Axelrad
Aaron Levy

1941
William Brandt
January 10, 1999

1942
Robert Harlan
Russell Parsons
March 1988

1946
George McGurn
February 6, 1999

1947
Howard Koven
John Korff

1948
Jack Krakauer

1949
Adele Graham
Walter Maker
March 1999

1950
George Ramspeck
June 19, 1993

1951
Meyer Burststein
Thomas DeButts

1952
Charles Russ

1955
James O'Mara

1956
Charles Beeching
Edward McGown
Frederick Tomblin

1958
Melvin Margolies

1959
Robert Lusher
May 1999

1960
David C. Peebles

1962
John Hudson
January 18, 1999

1963
Robert Gibson
Jack Greene

1965
Frederick Nakaara
December 30, 1998

1966
Martin G. Fogelson
September 9, 1998

1969
Melvin Goldberg
August 30, 1998

1971
Lynn Sterman

1979
Kathryn Smith Matkov
January 1998

1985
Harry Bull
August 1999

1993
Christian Aultendorfer, L.L.M.
August 4, 1999

1984
Mr. McGurn received his L.L.M. from the Law School after WWII. He was an Assistant Illinois Attorney General and then Chief Counsel for the Illinois Toll Highway Commission. In 1964, he formed Healey & McGurn, where he practiced transportation and construction law.

1989
Mr. Rosenberg was a graduate of the University of Chicago Laboratory School and the College as well as the Law School, where he was a member of the Order of the Coif. After graduating, he practiced with his late father and uncle, then served in the Navy in WWII. He began working at Radbeck & Wolfe in 1978, where he practiced real estate law until retiring in 1984.

1992
Mary Allen
July 27, 1999

1999
Robert Pasteur
in partnership with Carol D. Sullivan

1999
Mr. Sterman worked with the FTC and in the University of Chicago legal department, then in a series of public service positions concentrating on civil rights and poverty law. She was supervising attorney for the Illinois Fair Employment Practices Commission and staff counsel for ABA committees concerned with legal services for the poor. In that capacity, she led the ABA's effort to save the Legal Service Corporation.

1999
Ms. Allen was a partner in 1979. She then held corporate counsel and officer positions at Beatrice Companies, JMB Realty, Hartman Companies, and Brunswick Corporation. She was an active Law School volunteer and served as a mentor to many young women attorneys.

1999
Mr. Stone joined Cleveland's Burke Haber & Berick after law school. After he left that firm, he took on pro bono cases for the American Civil Liberties Union and other clients. An active reader and member of several book clubs, he volunteered with the Junior Great Books program in Cleveland area schools.

1999
George Matkov continues to keep us informed of memorials in honor of Kathryn Smith Matkov. The Federal Bar Association has established an annual award in Kate's name. The first recipient of the award was Patrick J. Murphy, public defender of Cook County. George has also set up a fund in Kathryn's name at the Law School and generously hosted a cocktail party at our reunion to benefit that fund.

1999
Mr. Aultendorfer worked at the Austrian Securities Agency in Vienna at the time of his death at age 31 of cancer.
ALUMNI ANNUAL DINNER

KEYNOTE SPEAKER

GERHARD CASPER

THURSDAY, MAY 4, 2000

THE RENAISSANCE CHICAGO HOTEL

LOOK FOR YOUR INVITATION IN THE MAIL!
SAVE THE DATES! MAY 5-6, 2000

ALUMNI WEEKEND
Lunch & Lecture in the Loop

Monday, December 13
12 noon
The University Club of Chicago
76 East Monroe Street


Come share a revitalizing meal with Judge Posner and your fellow alumni.