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FRIDAY, MAY 1, 2009
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The Stock Exchange Room at the Art Institute of Chicago
230 South Columbus Drive
RSVP to mmccarthy@uchicago.edu or (773) 702-5158
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Message from the Dean

Dear Friends,

This issue of our Record tempts me in many ways. The article on Professor Tom Ginsburg’s work on constitutions reminds me of how lucky we were to attract him here last year. The temptation is to repeat the news of that magnificent recruiting season. Similarly, the piece on our renovated and student-friendly Library reminds me of the success of our physical reconstruction. There the temptation is to recall how the original idea of renovating and preparing the Library for a century in which it would be much more than a keeper of books was often met with incredulity. As for the article on the Law Review, the temptation is simply to ask whether demisesquicentennial is the longest word published in the Record, not to mention in the Law Review itself.

But the article in this issue that most captures my attention is the one celebrating the Law School Musical. One goes to these musicals in fear for one’s life, or at least pride, but then is quickly overwhelmed by the energy, talent, and enthusiasm of the many students who have been making the musical their lives for the preceding (too many!) weeks. This year we celebrated the twenty-fifth anniversary (demisemicentennial?) of the modern Law School musical and enjoyed the presence of some Founding Students. It is interesting or even frightening that law schools all over the country started musicals, spoofing their faculty and themselves, at about the same time. One obvious theory is that it was a form of rebellion against the hierarchy of law school life. Another is that there were finally enough women at these law schools to imitate and borrow from popular Broadway shows. I note with some disappointment that this year’s show is described in these pages as bearing a plot that I unknowingly walked into by announcing just days in advance of the show that it was time to begin the search for a new dean. Unknowingly?!

In the good old days, we may not have offered as lovely a building, as serene a water element out front, as many classes, as many free lunches and coffee messes, as old a law review, and as many comparative law experts—but at least our students had more faith in the knowledge and foresight of the faculty and dean.

Yours,

Saul Levmore

Musical portrayals of Dean Levmore through the years (from left): Matt Maxwell, ’08 (L), in 2007; Matt Maxwell, ’08, in 2008; Brian Darsow, ’10 (L), in 2009; Brad Robertson, ’08 (R), in 2006.
From the Green Lounge to the White House

By Robin I. Mordfin
When Barack Obama arrived at the Law School in 1991, faculty and students alike sensed that he had a bright future ahead of him. As the first African American president of the *Harvard Law Review*, he was clearly an accomplished scholar with a fine mind and his choice of careers. And once he began teaching, his strong oratorical skills and his ability to communicate complex ideas made his political ambitions appear credible.

Craig Cunningham, ’93, one of the President's first students and a supporter of his teacher's political ambitions, felt that Obama was brilliant, talented, and had the potential to be a great leader. But Cunningham was also concerned about Obama's political future.

“I did expect him to run for office, because I would hang around after class and we would talk about the state senate,” Cunningham explains. “But after he lost the congressional race to Bobby Rush I thought he was moving too fast, that he should slow down and not run for a different office for a while because he was trying to do too much at one time. And Chicago politics were not going to allow him to do that. I was worried. And I was really surprised when he told me he was going to run for U.S. Senate.”

Douglas Baird, the Harry A. Bigelow Distinguished Service Professor of Law and former Dean, shared Cunningham's concern that winning the seat was a long shot for Obama.

“I remember having a cup of coffee with him when he said he was thinking of running for the U.S. Senate, and I looked at him straight in the eye and said, 'Don't do it, you're not going to win.’”

The future President came to the attention of the Law School when Michael McConnell, ’79, a professor at the Law School at the time who is now a federal judge on the Tenth Circuit Court of Appeals, told then-Dean Baird about an impressive editor at the *Harvard Law Review* who was doing an excellent job editing McConnell's submission. Baird reached out to Obama and asked him about teaching. Having already made plans to write a book on voting rights after graduation, Obama refused the offer. So Baird took a different approach and offered him a Law and Government Fellowship, which would allow him to work on his book and would perhaps lead him to develop an interest in teaching.

Obama accepted the offer and began the fellowship in the fall of 1991. At that time, he also practiced civil rights, voting rights, and employment law as well as real-estate transactions and corporate law as an attorney with Miner, Barnhill & Galland, a position he held until his election to the U.S. Senate in 2005.

Though the intended voting rights book ultimately shifted focus and became *Dreams from My Father*, Baird’s plans for moving Obama into the classroom played out as expected. By 1993, Obama was teaching Current Issues in Racism and the Law—a class he designed—and added Constitutional Law III in 1996.

“In Con Law III we study equal process and due process. He was incredibly charismatic, funny, really willing to listen to student viewpoints—which I thought was very special at Chicago,” says Elysis Solomon, ’99. “There were so many diverse views in the class and people didn't feel insecure about voicing their opinions. I thought that he did a really good job of balancing viewpoints.”

“When I walked into class the first day I remember that we—meaning the students I knew—thought we were going to get a very left-leaning perspective on the law,” explains Jesse Ruiz, ’95. “We assumed that because he was a minority professor in a class he designed. But he was very middle-of-the-road. In his class we were very cognizant that we were dealing with a difficult topic, but what we really got out of that class was that he taught us to think like lawyers about those hard topics even when we had issues about those topics.”

Over time, Obama developed a reputation for teaching from a nonbiased point of view. He was also noted for widening the legal views of his students.

“I liked that he included both jurisprudence and real politics in the class discussions,” says Dan Johnson-Weinberger, ’00. “Lots of classes in law school tend to be judge-centric and he had as much a focus on the legislative branch as the judicial branch. That was refreshing.”

From 1992 to 1996, Obama was classified as a lecturer. In 1996, after he was elected to the state senate, he became a Senior Lecturer, a title customarily assigned to judges and others with “day jobs” who teach at the school.

While the comments the administration heard from students about Obama were that he had a marvelous intellectual

“There were so many diverse views in the class and people didn’t feel insecure about voicing their opinions. I thought that he did a really good job of balancing viewpoints.”
openness and an ability to explore ideas in the classroom, he was not the subject of enormous student discussion.

"Most students were not that focused on Barack during the years I was there," says Joe Khan, '00. "For example, every year the professors would donate their time or belongings to the law school charity auction. Professor Obama's donation was to let two students spend the day with him in Springfield, where he'd show them around the state senate and introduce them to the other senators. People now raise thousands of dollars to be in a room with the man, but my friend and I won the bid for a few hundred bucks."

"I knew he was ambitious, but at that point in time at the Law School there were so many people on the faculty that you knew weren't going to be professors for the rest of their lives," Solomon explains. "We had [Judge] Abner Mikva and Elena Kagan and Judge Wood and Judge Posner. There is a very active intellectual life at the Law School and this melding of the spheres of academics and the real world is very cool. It's what attracts teachers and students to the school."

Unsurprisingly, though, he was of greater interest to the minority students on campus. "I don't think most people know his history," Ruiz says, "but when he became the first African American president of the Harvard Law Review it was a national story. I remembering reading the story and thinking I gotta go to law school!"

"We African American students were very aware of him because at the time there really weren't a lot of minority professors at the Law School," Cunningham explains, "and..."
We really wanted him to be a strong representation for the African American students. We wanted him to live up to the pressures and reach out to other ethnic minorities. And we were also very excited about possibly having an African American tenure-track professor at the Law School."

But a tenure-track position was not to be, although not because of a lack of interest on the part of the Law School. It was apparent that while Obama enjoyed teaching and savored the intellectual give-and-take of the classroom, his heart was in politics.

“Many of us thought he would be a terrific addition to the faculty, but we understood that he had other plans,” explains David Strauss, Gerald Ratner Distinguished Service Professor. “Although I don’t think any of us imagined that things would work out the way they did.” And while students like Cunningham wanted him to continue to a continued on page 6

Our Small Corner of the Obamaverse

By Alison Coppelman

On January 10, 2008, Marsha Nagorsky, ’95, the Law School’s Assistant Dean for Communications, got an e-mail from the Daily Herald, a suburban Chicago newspaper. The Herald was doing a story about Barack Obama and wanted to photograph a classroom that he had taught in. Nagorsky was confused at the time—she remembers thinking that it must be a slow news day if anyone was interested in photographing a Law School classroom for a story about a Presidential candidate. Little did she know then that she would field more than 100 such requests before President Obama was inaugurated just over a year later.

Both the Law School and, more generally, the University of Chicago have been home to influential and transcendent figures over the course of the past century. When Barack Obama announced his candidacy for President of the United States on a cold February day two years ago, the University—an institution that counts Nobel Prize winners, Attorneys General, CEOs, and quite a few celebrities among its ranks—prepared to receive the press inquiries, requests for interviews, random questions, and persistent phone calls about the former Senior Lecturer in Law that began during the Democratic primary and continued unabated through Inauguration Day. It turns out that all the preparation in the world doesn’t make you ready for the onslaught a presidential campaign brings.

As Law School liaisons in the University’s News Office, Sarah Galer and her colleague Julia Morse were responsible for fielding a majority of the e-mails and phone calls that streamed in from all corners of the world during Obama’s historic run, from China to Chile to the Philippines. Galer admitted that there was some anxiety about what the onslaught of media attention would bring and how it would reflect upon the University and Obama himself. The Law continued on page 7
tenure-track position, others were expecting a promising and accomplished political career.

“I was into state politics while I was at the Law School, so I am one of the few alums who knew the President as both a legislator and as a teacher,” notes Johnson-Weinberger. “I thought he would continue as a successful politician. But I never would have guessed that he would be our President.”

During his tenure in the state senate, Obama continued to teach at the Law School, some nights traveling straight up from evening sessions at the State House to his classroom.

“But the students never thought of him as a part-timer,” Strauss adds. “They just thought of him as a really good teacher.”

In 1996, Obama ran for, and won, the Thirteenth District of Illinois state senate seat, which then spanned Chicago South Side neighborhoods from Hyde Park–Kenwood to South Shore and west to Chicago Lawn. Then in 2000 he ran for, and lost, the Democratic nomination for Bobby Rush’s seat in the U.S. House of Representatives.

“He was very demoralized at that point and would not have recommended a career in public service to anyone,” Ruiz says. “He had suffered a setback, he was facing a lot of struggles in Springfield, and it was a hard lifestyle traveling back and forth to Springfield. We sat at lunch and he talked about how if he had joined a big firm when he graduated he could have been a partner. We did a lot of what if. But then he decided to run for U.S. Senate. And the rest is history.”

And history it is. Since he first came to the attention of Douglas Baird, Barack Obama has gone from being the first African American president of Harvard Law Review to being the first African American President of the United States. He came to the Law School and taught hundreds of students to think like lawyers and the students helped him to sift and think through myriad complex legal issues. In other words, even as President Obama left a lasting impression on the Law School and its students, that same environment helped to shape the man who became President Obama.

Obama chats with Lani Guinier, Bennett Boskey Professor of Law at Harvard Law School, in the Green Lounge after her October 2004 Schwartz Lecture.
Our Small Corner of the Obamaverse, continued from page 7

School did find itself involved in some controversy over Obama’s title. Obama referred to himself as a “constitutional law professor” on the campaign trail, and the Clinton campaign took him to task for it, saying that he had never held the title of Professor. The Law School decided to head off the reporters at the pass, released a statement clarifying his position as “Senior Lecturer,” and found itself in the middle of a war of words. In late March and early April, Nagorsky and Morse spent much of their time talking with reporters about Obama’s time at the Law School.

The scrutiny from reporters did not end there. Major news outlets continued to run stories throughout the summer and fall about Obama’s time at the Law School. The New York Times alone did three different stories—one on the front page—and asked Internet readers to opine on the exams Obama gave while teaching here. Stories featuring interviews with Law School faculty and alumni were covered by the Washington Post, Time magazine, the BBC, and all Chicago-area news outlets, just to name a few. “We spend

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so much time trying to get the press to write about what our faculty is doing,” said Nagorsky, “and all of a sudden we couldn’t turn around without seeing one of our faculty or alumni quoted. It was both exciting and exhausting to monitor.”

Nagorsky, Morse, and Galer spent a great deal of time in 2008 walking reporters around the Law School, sitting with them while they reviewed material—such as course evaluations—that they were not permitted to copy, setting up interviews with faculty, arranging photo shoots of the Law School and its classrooms, and providing all sorts of data to the media—such as exactly what classes Professor Obama taught when and how many people were enrolled in them. “Our biggest frustration was our lack of photos of Obama in the classroom,” said Nagorsky. “Because of his state senate obligations, Professor Obama taught mostly early on Mondays or late on Fridays, and we rarely photographed faculty then. If only we’d known …”

Obama’s time at the Law School turned out to be free of the controversy and conflict such intense scrutiny would have surely uncovered. That in and of itself was often a source of confusion, as Senior Lecturer in Law Dennis Hutchinson recalled. “The domestic journalists seemed bewildered by how little impact outside the classroom Obama made while he was here, a choice, I tried to explain, that he made. The overseas journalists were charming for the most part and eager to understand American politics.”

Those foreign journalists made things a bit complicated, as they would often circumvent University protocol. “Occasionally I would get a phone call from the Law School’s receptionist announcing that a reporter from a small newspaper in Argentina or Belgium was at the front desk with a photographer, hoping to conduct a couple of interviews and snap some photos. I had to try as kindly as possible to explain to them that faculty and students couldn’t be available every minute of every day,” Nagorsky stated. Nagorsky said that her primary concern was shielding the students from as much of the media glare as possible. “It was of the utmost importance that our students’ day-to-day lives could proceed as usual, without all of the disruption and distraction the constant presence of photographers and camera crews in the Green Lounge or the library might bring.”

Obama with Ellen Fulton, Joe Khan, and Dan Johnson-Weinberger, all class of 2000. Khan and Johnson-Weinberger purchased Obama’s CLF auction item: a day with their professor at his other job in Springfield. Fulton and Johnson-Weinberger organized a Law School fundraiser for Obama’s 2004 Senate primary.
Photographers and camera crews notwithstanding, the halls of the Law School were abuzz throughout the campaign. Though many of the students here were already actively engaged in politics, the prospect of one of the Law School’s own being elected Commander in Chief brought an added thrill to the table. Many students volunteered for the campaign, and even those who were not Obama supporters got swept up in the excitement. One of the most anticipated election-related events at the Law School involved a visit from the CNBC program Squawk Box, which aired live from the Law School’s D’Angelo Law Library on January 12, 2009. The broadcast included an appearance by Douglas Baird, Harry A. Bigelow Distinguished Service Professor of Law. It was one of more than a dozen interviews Professor Baird gave during the course of the campaign—both because of his connection to Obama and because of his expert knowledge of bankruptcy law—and one that required him to be at the Law School bright and early. “When I asked Professor Baird if he would be willing to appear on the show, and told him that he would have to be at the Law School at 5:00 a.m., he didn’t even blink. ‘That’s fine,’ he said, ‘I’m up then anyway,’” Galer recalled.

For those members of the Law School community who live in Hyde Park, the campaign brought an added layer of frenzy and activity. It was not unusual to see a motorcade of cars traveling along Lake Shore Drive or winding its way down Woodlawn Avenue to pick Obama’s daughters up from the University of Chicago Lab School, which they both attended. Indeed, normal day-to-day activities like working out at the Regents Park gym or getting a cup of coffee at the Medici Bakery brought the possibility of a run-in with a member of the future first family. David Strauss, Gerald Ratner Distinguished Service Professor of Law at Chicago, lives right around the corner from the Obamas’ house. “We had to deal with streets being blocked off, and sometimes I had to show ID in order to get to my house,” Strauss said. “Needless to say, it was all worth it. And it was kind of reassuring to have dozens of police officers and Secret Service agents in the neighborhood at all times.”

In spite of the disruptions and distractions that arose during Obama’s campaign, the faculty remained good-humored and cognizant of the important role the Law School played in shaping the presidential candidate. “It was interesting at first and then, predictably, tedious. But because Obama was influenced in meaningful ways by his experience at the

Though many of the students here were already actively engaged in politics, the prospect of one of the Law School’s own being elected Commander in Chief brought an added thrill to the table.
Law School, at the University, and in Hyde Park, it was worth trying to help reporters and others understand," said Geoffrey Stone, ’71, Edward H. Levi Distinguished Service Professor at the Law School.

While the questions that were asked of the Law School's faculty and staff were many and varied on the surface, Strauss may have put it best when he surmised that people were ultimately asking a million variations of one essential question: “What is he really like?” Now that the media requests and inquiries have died down, many are still wondering what the answer to that question really is. But there is no doubt as to how so many members of the Law School community—those who taught with Obama, played basketball with him, took classes from him, or simply wish that they had—felt on Inauguration Day: very proud, and both relieved and a little disappointed that life at the Law School would be going back to normal.

Nagorsky, Morse, and Galer are certainly pleased that while the world got to know President Obama, it got to know the Law School as well.
THE LIFESPAN
of
WRITTEN CONSTITUTIONS

THOMAS GINSBURG, ZACHARY ELKINS, AND JAMES MELTON
According to an old joke, a patron goes into a library and asks for a copy of the French Constitution, only to be told that the library does not stock periodicals. The joke feeds the Anglo-American habit of needling France, in this case suggesting a country with suspect democratic credentials, more concerned with fashion and form than substance. Yet France is more typical of national constitutional practice than the United States with its venerable 218-year-old constitution. By our estimate, national constitutions have lasted an average of only seventeen years since 1789. This is an unsettling estimate of life expectancy for a document whose basic function is to express guiding national principles, establish basic rules, and limit the power of government—all of which presuppose constitutional longevity.

On balance, constitutions that endure should be more likely to promote effective, equitable, and stable democracy. How durable are constitutions and what factors lead to their demise? Our concern is whether aspects of the design of constitutions have any significant effect on constitutional durability, net of other risk factors.

This question is not merely of academic interest. Recent constitutional drafting exercises in Afghanistan (2003) and Iraq (2004 and 2005) have been central milestones of American foreign policy. Each of these efforts sought to solve particular institutional problems, with different levels of success. It is, of course, too early to say whether either of these constitutions will survive to adulthood, but circumstances do not appear propitious in either country. In a far less volatile context in 2006, the 1997 constitution of Thailand—considered by many a model of institutional design adopted with extensive citizen participation—died a peaceful death in a bloodless coup at the age of nine. Indeed, given our estimated mortality rates, it is likely that constitutional replacement will be underway at any given moment somewhere in the world. Understanding what leads to such instances, and in particular whether design choices matter, has the potential to inform a science of constitutional design.

Any such epidemiological analysis requires an accurate historical census, a resource heretofore unavailable. As part of a large-scale research project, we have identified every major constitutional change—whether replacement, amendment, or suspension—in every independent state since 1789. We have also acquired the text for nearly every “new” constitution, as well as that for a large majority of amendments, and have recorded aspects of their design that our theory would predict to be relevant to constitutional longevity. Our analysis suggests a revision of the conventional wisdom regarding constitutional (and, more generally, institutional) change. The common intuition—rarely tested systematically—is one of sticky institutions that are unstuck only by cataclysmic world events, such as wars and economic crises. We find that constitutions are, as suspected, vulnerable to such crises. However, the inclusion of important design and process elements can add tens of years to constitutional lives, perhaps allowing the charters to survive even these intense shocks.

Constitutions as Coordination Devices

We hold the view that a successful constitution serves as a coordination device that renders its underlying political bargains self-enforcing, meaning that it must create a state of equilibrium from which no party has an incentive to deviate. Self-enforcement is important because, unlike normal contracts, there is in most circumstances no external guarantor who will enforce the constitutional agreement independent of the parties. Even though constitutional bargains may have relative winners and relative losers, they will endure to the extent that the losers either (1) believe they are better off within the current constitutional bargain than in taking a chance on negotiating a new one or (2) are unable to overthrow the existing order. Stability of the bargain depends on the winners upholding the commitments and limitations embodied in the constitution so that they do not provoke losers to resort to extra-constitutional action.

In democracies, enforcement of these constitutional limitations ultimately relies on citizens. If they can coordinate, citizens can prevent the government from imposing costs on them and violating the political bargain. If they cannot coordinate, democracy may not be stable, as the government will continuously adjust the bargain in its favor with political acquiescence.
Written constitutions can assist citizens in overcoming the coordination problem by providing a definition of what constitutes a violation by government, thus providing a focal point for coordination and enforcement activity. Resolving the coordination problem among citizens attempting to enforce limits on government behavior is extremely difficult, however, and the mere presence of a written constitution is no guarantee that coordination will in fact occur.

**The Problem of Incomplete Information**

A central problem for constitutional endurance is that, although the constitutional bargain may be an optimal, self-enforcing arrangement for the parties at the time it is drafted, it may not remain so.

At the start of any peacefully created constitutional arrangement, each party comes to the negotiating table to bargain. The bargaining process is costly because it requires negotiation and the expenditure of political resources. The parties will conclude a bargain or not based on an expected stream of benefits to particular groups, net the transaction costs of negotiation.

**The bargaining process is costly because it requires negotiation and the expenditure of political resources.**

Should they conclude a bargain, it will of necessity be incomplete, in that the parties will be unable to specify every future contingency. One reason it will be incomplete is the familiar one of the transaction costs of negotiating terms of a deal: parties that seek to specify every contingency will never conclude an agreement. Beyond the costs of negotiation, we focus on two types of obstacles to specifying a complete constitutional contract.

First, there is uncertainty about future payoffs, which may vary with exogenous factors. Exogenous change means that even endogenously stable constitutions may come under pressure for renegotiation. Our examination of constitutional histories confirms that constitutions frequently appear to die because of exogenous shocks, such as wars, regime change, and shifts in the boundaries of the state.

Another source of incompleteness is a lack of awareness of one’s negotiating partner’s position. This is the problem of hidden information. A party to constitutional negotiation may misrepresent its own endowments and intentions for strategic reasons. Hidden information can lead to a miscalculation of relative costs and benefits. One can imagine that if the miscalculation is severe enough, the disadvantaged party will seek to renegotiate the deal. Even if it does not, the difference between expected and actual costs and benefits may eventually increase the advantaged party’s power to the point where it is in a position to demand a better overall deal. Thus hidden information at the time of drafting can exacerbate pressures on the constitution later on.

The problem of hidden information is particularly severe in the first period of constitutional performance, and we have many examples of constitutions that die in their first year of operation, particularly in the context of failed peace agreements. Future contingencies, however, grow more difficult to predict with time, as more and more exogenous factors arise and interact with each other in complex ways.

**Why Standard Solutions to Incomplete Information Do Not Work**

One standard answer to the problem of incomplete information is to write loosely defined contracts that allow flexible adjustment over time as new information is revealed. The parties specify performance within general parameters that can accommodate changing circumstances. There is, however, a well-known risk of moral hazard from such loosely specified contracts. If performance is not precisely specified, one might claim that circumstances have changed in order to take a greater share of the constitutional surplus. Indeed, knowing that this is a possibility down the road, a party might seek to conceal its intentions and endowments from its constitutional partners during negotiation. Trying to address the problem of incomplete information through drafting flexible “framework” constitutions, then, may exacerbate strategic problems of hidden information.

The reverse is also true. A standard response to the problem of hidden information is to write a more complete agreement specifying contingencies. By forcing the other party to reveal information during negotiation, one can minimize strategically generated surprises down the road. But this solution to the problem of hidden information, in turn, exacerbates the risk of rigidity in the face of exogenous change.
A third standard solution to problems of hidden and incomplete information is to rely on third parties. Analogizing to contract law, one might imagine a theory of constitutional review in which the courts seek to correct bargaining problems down the road. In such a case, the role of the court would be to provide default rules that reflect its understanding of the position the parties would have bargained to, should they have had all the information at the time. In contract theory, courts playing this role can provide a disincentive for negotiating parties to hide information from the other party.

There are significant problems, however, with expecting courts to serve this function for constitutions. First, there are capacity issues in which the courts may be unable to determine what the appropriate rule is. Second, in the constitutional context, no matter what decision the court makes, the relevant parties still face the second-order decision as to whether or not to comply with the court decision. That is, there is no guarantee that the decision will be followed and there is no external enforcer of the court decision. One must thus return to the incentives of the parties to understand constitutional endurance. Finally, the assumption that constitutional courts are able to correct bargaining problems of hidden information is problematic because courts are not automatically granted the power of judicial review. Indeed, the existence of a constitutional court is itself a product of the constitutional negotiation, a term over which parties will bargain.

To summarize, two sources of uncertainty, the first caused by variance in exogenous parameters and the second caused by strategic incentives to hide information, mean that parties will never be able to produce a complete constitutional contract. For each of them, information revealed later in time may affect the parties’ perceptions of the arrangement, putting pressure on bargains that may have been self-enforcing at the time they were written.

**Renegotiation and Breakdown**

In considering whether to renegotiate, each party will consider its position in the current bargain, comparing it with expected outcomes of a constitutional renegotiation.
Change in the constitution, however, is not costless. Amendment processes vary widely in their difficulty and complexity, and this will be a factor that affects a decision to seek to change the terms. Even more costly than amendment is total replacement, because there are more issues to bargain over and putting all the issues on the table renders the bargaining results less predictable \( \text{ex ante} \).

If the expected outcome of constitutional renegotiation (conceived of as the set of all possible alternatives multiplied by their probabilities of obtaining, less negotiation and switching costs) exceeds the current stream of benefits, can coordinate among themselves, they can refuse the proposed change by enforcing the terms of the constitution. In these instances, the original constitution survives, enforced. If coordination does not occur, the constitution may be replaced.

This model of constitutional transgression leaves us with three general propositions regarding the lifespan of constitutions:

1. strong enforcement mechanisms will decrease the probability of transgression and extra-constitutional replacement;
2. external shocks and crises will increase the probability of transgression, as will characteristics of the state that lead to such crises; and
3. conditional on transgression, easily adaptable constitutions will decrease the probability of replacement.

**Investigating Mortality: Shocks and Structure**

Analytically, it is useful to organize risk factors into three categories. Constitutional lifespan will depend on (1) the occurrence of shocks and crises (precipitating events), (2) structural attributes of the constitution, and (3) structural attributes of the state.

**The Occurrence of Shocks and Crises**

We have rather strong intuitions about what sort of events would destabilize constitutional systems—those that significantly alter the balance of power within either the regime or the state. It is not hard to assemble a list of such events, as they constitute the milestones of a state’s political history. They include military subjugation, state merger or secession, diffusion (the tendency of one constitutional replacement to spur other replacements, especially in geographically or culturally proximate countries), regime change, leadership transition, and institutional crisis (an internal crisis irrespective of any ideological, leadership, or regime change).
**Structural Attributes of the Constitution**

The shocks that we describe above threaten the existing political order and undoubtedly have some effect on the lifespan of constitutions. Our crucial question, however, concerns the degree to which underlying structural factors play a role in mortality. In particular, do aspects of constitutional design play a decisive role? Our theory suggests that constitutions need to resolve problems of hidden information, provide incentives for enforcement (particularly by citizens), and also need to provide for flexibility in the face of exogenous pressures. We expect that the *specificity* of the document, the inclusiveness of the constitution's origins, and the constitution's ability to *adapt* to changing conditions will be important predictors of longevity. We also expect that a set of structural conditions associated with the state will render the constitutional system more or less stable.

**Specificity.** One strategy that can help constitutions survive is to anticipate relevant sources of pressure and deal with them in the constitutional text, more fully specifying the constitutional bargain. It is particularly helpful in solving problems of hidden information among the bargainers. By forcing counter-parties to consider various possible future shocks and scenarios, the drafters can minimize problems of strategic behavior and holdup once the constitution comes into effect. We thus predict that specificity will be associated with constitutional survival. We use the term *specificity* in a general manner, as involving not only detail in the particular terms but also in the scope of the types of events the constitution covers. A broader scope of the constitution also indicates a certain amount of investment by the parties in negotiation, which may raise the prospective cost of renegotiation.

**Inclusion.** It is very clear that constitutions throughout the world are treated with varying amounts of respect by citizens and elites alike. For some countries (e.g., the United States), the document is an important symbol of sovereignty and statehood; for others (e.g., many Latin American constitutions of the 1800s), the constitution is of considerably lesser stature. In part, the connection between legitimacy and survival is reciprocal: framers and citizens will be more attached to a legitimate document, and documents that survive will in turn engender norms of attachment. Our theory suggests a further reason: constitutions whose provisions are known and accepted will more likely be self-enforcing, for common knowledge is essential to resolving coordination problems. This suggests that inclusion in the process of producing the constitution will help ensure enforcement by the public or other relevant actors. Constitutional durability should increase with the level of public inclusion during both the drafting stage and the approval stage.

**Adaptability.** As described above, exogenous change puts pressure on constitutional bargains. The ability of a constitutional system to adapt to changes in its environment will determine whether it remains in equilibrium. There are two primary mechanisms by which constitutional change occurs: formal amendments to the text and informal amendment that results from interpretive changes. To a certain extent, these mechanisms are substitutes. If the methods of securing formal amendment are difficult (as in the United States, with its requirements of ratification by three-quarters of state legislatures), there may be pressures to adapt the constitution through judicial interpretation.
If, on the other hand, formal amendment is relatively simple, there may be less need for judicial or other institutional reinterpretation of the constitution.

Optimal adaptation thus results from the interaction of amendment rigidity and the possibility of reinterpretation of the constitution. The optimal level of flexibility is not universal, but determined in any particular constitutional situation by both exogenous factors (such as the rate of technological or environmental change) and endogenous factors (such as the level of responsiveness of political institutions under the constitution and the level of inclusion at the outset of the constitution scheme). A rigid constitution that fits its society well at the outset may be suitable if the rate of technological or environmental change is low, but the same constitution may perform poorly if change is rapid.

Constitutions that lack either flexible formal amendment processes or effective mechanisms of informal reinterpretation may not adapt to changing environmental conditions. Having a more established set of unwritten constitutional conventions that will allow for adjustment over time and provide some insulation when shocks put pressure on the written bargain. Another factor may be the level of development. A basic empirical finding is that development tends to stall political change, in whatever direction. One can think of development as indicating that current constitutional arrangements are successful at providing a stream of benefits to various players, such that their absolute status is more secure under the current bargain that it would be under alternative arrangements. Transition costs are also likely to be higher in richer environments, as the opportunity costs of negotiating basic principles are greater. Finally, ethnic heterogeneity is likely to promote instability, inasmuch as political competition often falls along ethnic lines.

**Constitutions that lack either flexible formal amendment processes or effective mechanisms of informal reinterpretation may not adapt to changing environmental conditions.**

**RESULTS OF THE DATA ANALYSIS**

Constitutions, in general, do not last very long. The mean lifespan across the world since 1789 is 17 years. Interpreted as the probability of survival at a certain age, the estimates show that one-half of constitutions are likely to be dead by age 18, and by age 50 only 19 percent will remain. Infant mortality is quite high—a large percentage, approximately 7 percent, do not even make it to their second birthday. Also, we see noticeable variation across generations and across regions. For example, Latin American and African countries fit the joke of the French-constitution-as-periodical much better than does France itself. Our current analysis suggests that the mean lifespan in Latin America (source of almost a third of all constitutions) and Africa is 12.4 and 10.2 years, respectively, with 15 percent of constitutions from these regions perishing in their first year of existence. Constitutions in Western Europe and Asia, on the other hand, typically endure 32 and 19 years, respectively, and their lifespans are the least skewed. Organisation for Economic Co-operation and Development (OECD) countries have constitutions lasting 32 years on average, suggesting a development effect analogous to its well-known relationship with democracy. Finally, unlike the trend of improving human health, the life expectancy of constitutions does not seem to be increasing over the last 200 years. Through World War I, the average lifespan of a constitution was 21 years, versus only 12 years since.

Does the hazard rate (the probability a constitution will die at a certain age conditional upon its survival to that point) increase, decrease, or stay the same throughout the
lifespan? In trying to answer this question, we restricted our analysis to the first 50 years of a constitution’s life, after which only 25 percent of constitutions remain and our confidence intervals are quite large. Our results suggest that constitutions are most likely to be replaced around age 10. However, the risk of replacement is relatively high during most of this period, and it appears constitutions do not begin to crystallize until almost age 50. Small samples do not allow us to describe the relative risks to those over 50, except to emphasize that even these hardy seniors are not immortal. Sweden’s constitution lasted 165 years, only to be replaced in 1974.

The statistics of the overall model suggest that both shocks and structural factors are important predictors of mortality. We find that several internal features of the constitution are strong predictors of durability, in accordance with our theory. In terms of inclusion, public ratification produces more enduring constitutions in democracies, but not in autocracies. This is intuitive: referenda in dictatorships do not genuinely confer legitimacy or facilitate collective enforcement of constitutional terms. We find that constitutions written in democratizing times are more resilient when precipitating events are included in the model. The most influential variables are clearly constitutional review and the ease of the amendment process, both of which decrease mortality. Adaptability, it appears, is crucial for constitutional survival. In the case of amendment ease, for example, an easily amended constitution (one whose probability of amendment is one standard deviation above the mean) has a 70 percent chance of lasting until age 50 versus 13 percent for those whose amendment probability is estimated at one standard deviation below the mean. Consistent with our expectations we find that constitutions that cover more topics are more durable than shorter ones, suggesting that specificity matters, although length of constitution alone does not seem to increase endurance.

Among the structural variables, several findings stand out. Ethnic fractionalization and wealth (as captured through energy consumption) have effects in the predicted directions (increasing and decreasing mortality, respectively). We find no effect for common law, consistent with our own intuition and contra to the well-known results in the law and finance literature. We also note that the trend toward shorter lifespans over the 200 years remains even after we control for a full set of covariates. Constitutions adopted from 1919–1944 are more vulnerable than are those adopted in earlier periods, and those adopted in the post-1945 period are more fragile still.

**Conclusion**

Our analysis of the constitutional life cycle leads us to think of constitutions as rather fragile organisms. Indeed, the average citizen outside of North America and Western Europe should expect to see her country cycle through six or seven constitutions in her lifetime. That estimate, of course, will depend on general levels of stability in any particular country. Those states that are the setting for crises such as war, internal violence, and coups should experience more frequent change. However, over half of the world’s constitutions survive even these major shocks, prompting our inquiry into the internal characteristics that may support resilience.

Enduring constitutions share three important qualities that date back to the circumstances of constitutional birth. First, durable constitutions tend to emerge under conditions characterized by an open, participatory process—conditions that encourage enforcement of constitutional terms. Second, durable constitutions tend to cover a wide range of topics, inducing the parties to reveal information and to invest in the negotiation process. Third, durable constitutions tend to be flexible ones, in that they provide reasonable mechanisms by which to amend and interpret the text to adjust to changing conditions. These findings have natural implications for constitutional design.

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1. The median lifespan is only eight years, while the mode is a miniscule one year.

2. We identified constitutions in the data that follow by a set of three conditions. The first is sufficient to qualify the document as a constitution, while the others are alternative sufficient conditions if the first is not met. Constitutions are those documents that either (1) are identified explicitly as the “Constitution,” “Fundamental Law,” or “Basic Law” of a country; or (2) contain explicit provisions that establish the documents as highest law, either through entrenchment or limits on future law; or (3) change the basic pattern of authority by establishing or suspending an executive or legislative branch of government.
You probably remember the Office of Career Services (OCS) as a place to go with questions about private sector employers and on-campus interviews or a place to find a friendly ear and advice on career concerns. The OCS office has moved from the basement level to the new Student Services wing on the third floor of the library tower, with those functions intact. But along the way, we changed some familiar programs and expanded our focus.

The latest in a series of changes and the most important for those of you who come back each fall to recruit is that on-campus interviews have moved to August 17 through 28 in 2009. Interviewers will now get to visit Chicago in summer and current students will get to visit employers for callbacks in September before classes resume.

For those of you who have not visited us as interviewers or whose employers have not received the level of student interest you might prefer, we invite you to interview in August 2009. This generation of students seems increasingly interested in looking at employers that span the spectrum of size, type and number of practice areas, and geographic location. Students more than ever are looking for the “right fit” and are keenly aware that one size employer does not fit all.

This schedule change requires a bit of context. In the last decade, law schools that have large-volume, on-campus interview programs have moved toward earlier and more compressed fall interview schedules. This trend began as a way to minimize the disruption to fall classes that on-campus interviews and callbacks created, but gained traction as employers became more concerned about meeting their hiring needs early while also guarding against making too many offers or late season offers that might yield more.
than their targeted number of summer or permanent associates. Guidelines promulgated for fall 2008 by NALP (The Association for Legal Career Professionals) contributed to this acceleration by specifying that employers could expect a law student to respond to an offer of employment forty-five days after the offer was made.

In the late fall of 2008 these forces coalesced with a weakening economy, leading the Office of Career Services to review what adjustments we might make that would allow the on-campus interview program to maintain its strength and vitality even if the economy did not rebound by fall of 2009. A review of what other high-volume interview law schools planned for the coming fall indicated that if we did not move our on-campus dates to August, we would be very late, indeed at the end, of a recruiting process that could fill early with talent from these other high-volume schools. August interview dates were an idea whose time had come. They provide students with an opportunity to enter the legal job market earlier, schedule callback interviews with maximum flexibility throughout the month of September, and return to their classes with far less disruption at the beginning of the academic year.

In addition to changes in well-established programs, the expanded focus of OCS has taken numerous forms:

• introduction of 1L students to law firms through firm•wise, a program designed to provide information about private sector opportunities well before the private-firm market begins;
• creation of the International Human Rights Internship Program for 1L and 2L students;
• preparation for the job search earlier and more consistently via interview coaching; and
• increased information and guidance for those seeking fellowships as post-JD career opportunities.

Second-year students examine the daily schedule board at OCI for changes and interviewer identities.

For one afternoon each April, firm•wise takes over the Green Lounge to let first-year students and employers meet informally.

Begun in 2007, the firm•wise program invites approximately sixty law firms to visit the Law School for one evening during spring quarter. The program is designed to provide 1L students with the opportunity to talk one-on-one with practicing lawyers—most of whom are alums—about what life is like in a particular firm, practice, or geographic location. Students have raved about the program as an opportunity to get their feet wet with firms and potential interviewers before they dive headlong into the wave of summer and
fall recruiting. Firms report that the program increases their visibility on campus before students are required to make decisions about which employers they would like to see in the on-campus interviews. If your firm or employer has not participated in firm•wise and you are interested in an invitation for this event in the future, please contact Susan Staab at sstaab@law.uchicago.edu.

The International Human Rights Internship Program, new in the summer of 2009, capitalizes on the growing interest among students in this area and the addition of new faculty with expertise and experience in this field. In this initial year, Professors Rosalind Dixon, Thomas Ginsburg, and Martha Nussbaum forged arrangements with international human rights organizations to have University of Chicago law students work with these entities for the summer. Some students also had the opportunity to conduct research for the professors in addition to their work in-country with the human rights organizations. The response from the students has been very enthusiastic, yielding over forty applications for the program. Ultimately, about a dozen law students will be working this summer on legal and policy issues for human rights organizations in Australia, India, Korea, and South Africa.

The third area of expansion in the Office of Career Services—interview coaching—takes the form of one-on-one feedback rather than the provision of new programs for multiple attendees. Interview coaching draws on both career counseling and performance coaching to identify interview behaviors that might make a law student/job candidate less appealing to an interviewer. The coaching session moves beyond the identification of potential problems and with the coach’s guidance enables the student to identify and practice more appropriate interview behaviors. Effective coaching sessions not only lead to more successful
interviews, but also provide the law student with interview skills and interpersonal sensitivities and techniques that will serve a lawyer well in practice. Over the last year, the Office of Career Services has conducted more than 260 coached interview sessions. These coaching sessions are open to all JD students beginning in their first year and to LLM students while they are at the Law School.

With an increasingly diverse student body comes increasingly diverse career goals. While most University of Chicago Law students continue to either accept a judicial clerkship or become law firm associates as their first positions after law school, an increasing number of students are eager to explore public interest and public service while at the Law School and after. To make this exploration possible, the Office of Career Services provides a broad array of programs, job fairs, electronic databases, printed materials, organizational memberships, and alumni contacts to ease access to information about this sector of the legal profession.

Working closely with interested student groups, OCS now also provides an e-mail list with frequent job notices sent to all students with an interest in public service so they need only check their e-mail to find out about current opportunities. This increased activity devoted to careers in public service seems to be paying off. In this academic year, four current students have been awarded prestigious public interest fellowships including two Skadden fellowships, a Sutro Fellowship, and a fellowship through the Southern Poverty Law Center (see sidebar).

We hope that you will join us for firm•wise or on-campus interviewing over the next few months. We look forward to introducing you to the current generation of excellent Chicago students—your future colleagues.

MEET the FELLOWS

Kristin Greer Love and Kent Qian were each awarded Skadden Fellowships to pursue projects they designed. The Skadden Fellowship program is the nation’s premier fellowship program and has been called “a legal Peace Corps” by the Los Angeles Times.

Kristin will be working with Centro de los Derechos del Migrante dealing with the rights of Mexican guest workers. She is a Truman Scholar who attended the University of Chicago as an undergraduate. She has worked with numerous public service organizations serving immigrants and working on environmental issues. She has interned with an art collective in South Africa and is also a Boston-qualified marathon runner.

Kent will be working with the National Housing Law Project in Oakland, California, on housing foreclosures and assisting evicted tenants in Northern California. He holds an MS in physics and has conducted research on a variety of topics in this area, including the physics of baseball. He has worked on a variety of legal issues, including housing, employment, parole hearings, and intellectual property.

Dominique Nong accepted a post-graduation fellowship with the Southern Poverty Law Center, the renowned civil rights center in Montgomery, Alabama. Dominique will be working primarily on juvenile justice and school-to-prison pipeline litigation and campaigns. She received a BA in social studies from Harvard. She has been an active member of the Mandel Legal Aid Clinic’s Criminal and Juvenile Justice Project and serves as a member of the Clinic Board. She has taught English in Vietnam as well as to Chinese immigrants in America.

Grisel Ruiz was granted the Sutro Fellowship from the law firm of Pillsbury Winthrop Shaw Pittman. Grisel will be working with the California Rural Legal Assistance Foundation to provide legal assistance and education to immigrant female farm workers who are subject to sexual harassment and abuse. She received degrees in political science and Spanish from Notre Dame, where she participated in varsity track and field. She has worked in a variety of public sector organizations, including a legal aid center, a public defender’s office, an immigrant rights center, and the U.S. Attorney’s office for the Central District of California.
Let’s Put On a SHOW! 25 Years of Law

When Saul Levmore announced in early February his intention to leave his post as Dean of the Law School, little did he know that he was playing into the plot of this year’s Law School Musical, Chicago First: A Musical We Can Believe In! In the musical version of reality, Dean Levmore has already stepped down, leaving the school in the hands of a market-selected (i.e., student-elected) Interim Dean. This scenario happily drives the plot through enough twists and turns to cover the parodies of professors and laments about law school life that we have come to expect from the annual show, with just enough room to incorporate jokes and characters that resonate with our collective experience of the presidential election.

Chicago First is the twenty-fifth musical to go up at the Law School, and the show has become something of an institution. But how exactly did the tradition begin? For that we can thank Mike Salansom, ’86, Josh Hornick, ’85, and Jeff Pecore, ’85, who spearheaded the first show in 1983–84. That first production, Lawyers in Love, traced the budding relationships of three pairs of star-crossed first years and featured entirely original music, lyrics, and book by Salansom and Hornick. Pecore stepped up to direct. Salansom recalls a “healthy skepticism” among the students and faculty that first year, and that the audience clearly didn’t know quite what to expect. After some “awkward chuckling” at the first song-and-dance number, attendees warmed up to the show, and it’s been a popular event for participants and audiences each year since. The first show involved about twenty students; by the 1986 show, more than fifty were involved; this year’s program listed sixty-five cast, crew, and orchestra members.

Owing in part to the effort required to create original music and lyrics, plots in recent years have generally followed the storyline of an existing Broadway show or popular movie, with new lyrics penned for time-tested musical numbers or popular hits. Chicago First took its plot cues from current events, but featured “When You’re Good to Michele” (Dean of Students Michele Richardson, that is, sung to the tune of “When You’re Good to Mama” from Chicago) and “Here We Are Again” (to the tune of Whitesnake’s “Here I Go Again”), among other song parodies.

Faculty, though often mercilessly spoofed, are generally good-natured about the show. Students eagerly anticipate which faculty member will have a cameo, information that is closely guarded until the actual appearance on opening night.
This year, Professor Richard McAdams did the honors, playing his fictional twin brother, Bob, with admirable realism.

Those wanting to reminisce about past shows are invited to the Law School’s Facebook page, where there are archival shots from many of the shows. We look forward to your tags, captions, and corrections and will transfer this information to our archival records. And certainly, if you have any photos to contribute, please feel free to upload them!

(Left), Cast members from the 1993 show, A Corpus Line, singing "Bad, Bad Abner Greene."

(Below), Monica Betancourt, ’11, as Dean Sarah Palin in the 2009 show, Chicago First: A Musical We Can Believe In!
Law Review Marks Demisesesquicentennial

So far as I know, there is nothing in any other professional group which remotely resembles this guild of students who, working harder than their fellows, manage to cooperate sufficiently to meet the chronic emergency of a periodical. ... The resulting standards often become so high that the contributed articles by law teachers and practitioners are markedly inferior to the student work, both in learning and in style, and, in fact, often have to be rewritten by the brashly serious-minded student editors.*

Amen. [Ed.]

Conversations with past editors of the University of Chicago Law Review reveal an appreciation of Reisman’s observation and the footnoted affirmation of the Editor-in-Chief, one Abner Mikva, ’51. The editorial work required for Law Review submissions, as for those to any academic publication, run the gamut from straightforward cite checking to full-on research assistance. That law reviews are student-edited periodicals is what former Dean and Professor Emeritus Gerhard Casper referred to as “one of the most startling characteristics of American legal scholarship,” which provides the “means for achieving the depth of understanding and fidelity to one’s materials that make up some of the essence of a learned profession” (50 U. Chi. L. Rev. 405 [1983]).

Dawn Matthews, Business Manager of the Review since 1986, affirms that in fact, high-quality submissions are always abundant, thanks to the Review’s longstanding reputation of excellence. Now celebrating its seventy-fifth year, the Review first appeared in 1933, thirty-one years after the Law School offered its first classes. Although Joseph Beale, the first Dean of the Law School, and William Rainey Harper, the first President of the University, had wanted to establish a law review sooner, the small size of the faculty, the work accompanying the organization and early operations of the school, and, most important, the cost of publication delayed the venture.

Despite the delay, the journal had an illustrious beginning. Staff members of that first Law Review included Edward Levi, Stanley Kaplan, and Abraham Ribicoff. Authors of articles appearing in volume 1 included William O. Douglas, Charles E. Clark, Charles O. Robory, Robert Hutchins, Joseph Beale, and E. W. Hinton. Over the next eight years, the Law Review grew in stature. Contributing authors included Harry A. Bigelow, Roscoe Pound, John H. Wigmore, and Samuel Williston. Student members included Bernard Meltzer, Harry Kalven, Albert Ehrenzweig, and Wally Blum (who is said to have edited the Law Review at Jimmy’s, beer in hand).

Volume 10 marked the entry of the United States into World War II. A staff of just two students produced the first of the four issues. Starting with the fourth issue of volume 10 and continuing through volume 13, Professor Ernst Puttkammer, ’17, Faculty Advisor and now Editor in Chief, kept the Review going nearly singlehandedly.

After the war, the Law Review returned to the students. Since then it has continued to serve as a forum for the expression of ideas of leading professors, judges, and practitioners, as well as students, and as a training ground for University of Chicago Law School students. Prominent

The 1952-53 Editorial Board (all members of the Class of 1953) appears here in the earliest existing archival photo of the Law Review staff. Seated, left to right: Lawrence Reich; Dale Broeder; Marvin Chirelstein; Alexander Polikoff, Editor in Chief. Standing, left to right: Howard MacLeod; Richard Stillerman; Robert Bork; Merrill Freed; Jean Allard.
former members include Judges Danny Boggs, Robert Bork, Frank Easterbrook, Douglas Ginsburg, Abner Mikva, Michael McConnell, and David Tatel, and Senator Amy Klobuchar. The list of Supreme Court Justices published includes Brennan, Clark, Douglas, Frankfurter, Scalia, and Stevens. Those who have worked on the Law Review recall an intense but positive experience, including current University of Chicago faculty. According to Todd Henderson, '98, “Two of the most important traits of any good lawyer are the ability to distinguish between good and bad arguments, and an attention to detail. Being a law review editor gives you an opportunity to practice both of these skills in ways that stay with you for years.” Geoffrey Stone, ’71, notes that “the experiences of writing a published comment under close editorial supervision by other students and then serving as Editor in Chief were pivotal in my career. It was in this context of my work on the Law Review that I first truly fell in love with the idea of legal scholarship.” Former Book Review Editor Anup Malani, ’00, remains sympathetic to the pressures of law review work. He recalls the challenges when busy academics would miss their deadlines or submit reviews that veered off topic. Now on the submitting side, “I try to remember that when I deal with law review editors today,” says Malani.

Beyond the professional benefits, work on the Law Review represents a strong shared experience for staff members. Just scanning the Class Notes section of the Record provides ample evidence that long-lasting personal and professional connections are often forged. Malani, who was surprised to find the atmosphere of the Law Review office to be “really friendly—not really competitive,” counts his friendships with fellow editorial board members among his most enduring. It also connects him with Chicago Law faculty colleagues. In addition to Henderson, Stone, and Easterbrook, Professors Jacob Gersen and Randall Picker are fellow Chicago Law Review alums.

Changes in the demographics of the Law School over the last decade or so have brought equivalent changes to the environment of the journals office. Once a bastion of young, single men, the Review staff is now more diverse in age and gender. According to Dawn Matthews, staff members’ spouses, partners, and children stop in for visits and food deliveries and, collectively, form a kind of support system for single staff members as well.


The current Editorial Board (all members of the Class of 2009). Seated, left to right: Lindsey M. Weiss; Marianna C. Mancusi-Ungaro; Daniel Jones; Vikas K. Didwania; Bryon Hart; James M. Burnham. Standing, left to right: Bradley P. Humphreys, Editor in Chief; Michael E. Rayfield; Eric M. Fraser; Peter Rock Teres; Brian T. Gale; Jason M. Wilcox; Amanda R. Coleman; Justin Ellis; Shannon Barrows Bjorklund; Robert B. Tannenbaum.
A 21st-Century Library
Sheri Lewis, Associate Law Librarian for Public Services and Lecturer in Law

After nearly fifty years as the cornerstone of the Laird Bell Quadrangle, the D’Angelo Law Library is now better than ever. During the 2006–2008 Law School renovation, the five floors of the library were transformed into attractive, inviting spaces for individual and collaborative learning. The newly renovated space enables students to work more comfortably and efficiently with collections and online resources, with librarians and staff, and with each other.

**SPACES THAT PROMOTE LEARNING**

Pre-renovation surveys showed that students mostly congregated at tables along the windows on the two main library floors, taking advantage of the natural light and relative comfort. The library now has study areas distributed throughout all five floors, with study tables—consistently the most popular work spaces in the library—available in a variety of sizes. “The renovation created spaces with different purposes on each floor of the library,” 3L Laura Heinrich explains. “The variety in space allows the library to serve a greater range of academic and social functions for students.”

More than 100 secluded carrels offer quiet and convenience for students working on journals and as faculty research assistants. According to 3L Shannon Barrows Bjorklund, “My favorite part of the library renovation is the installation of new carrels. … Before, there were small tables and not enough space for all of the students. Now, there are roomy carrels, with bookshelves and locked cabinets. I am on a journal and have spent many hours cite-checking in the library. These carrels were a real life saver … [and] really do lead to a better, and more comfortable, educational experience.”

The library’s seven conference rooms are extremely popular, offering collaborative work space and natural light exposure.

New lounge seating areas provide convenient space for breaks and more comfortable reading.

The carrels were redesigned for the 21st-century law school student.
HELPING STUDENTS CONNECT—COMFORTABLY AND CONVENIENTLY

To support the twenty-first century student, network access and electrical outlets are now available throughout the library. Students have the option of using the building-wide wireless network or one of the data jacks available at nearly every seat. For those not traveling with their laptop computers, walk-up workstations are centrally located on every floor. And a computing lab on the third floor houses all student printing, technical support, and tables equipped with individual-use desktop computers. Other facilities upgrades in the library include new locker areas, which allow students to secure their belongings during class time and study breaks. Students can also recharge their computers or other electronic devices in any of the eighty-eight specially designed laptop lockers, each equipped with an electrical outlet.

One of the more innovative additions to the library is the technology-equipped media room located within the fourth-floor stacks. The room provides space for students to view course-related videos either individually or with a group. With a large television, video viewing equipment, and cable TV access, the room is also the perfect location for students to unwind with a sporting event or a movie selected from the library’s extensive Fulton DVD collection.

ENHANCED SERVICES IN ENHANCED SPACES

Services are at the center of the D’Angelo Law Library’s mission to support students. In renovation planning, the library considered how spaces should best be arranged to promote research and learning. One result was the combination of circulation and reference services at one central desk. “The rearrangement of the library’s staff and support make it easier to get help,” says 3L Eric Fraser.

Comfortably-sized study tables accommodate learning with books and technology.
“During my 1L year I didn’t really understand the difference between the two desks and the reference desk seemed intimidating. Now it seems much more approachable.”

Adjacent to the reference and circulation desks is a new enclave for librarians to meet with students about research and paper assignments. The design of the consultation area provides generous space for a librarian and a researcher to view online resources together on one of several workstations or to work with printed materials.

While the renovation improved the library in many ways, previously successful spaces remain even as upgrades to furnishings and lighting make them more attractive. The reserves room continues to provide students with a core collection of texts, study aids, and other resources supporting their coursework, as well as the Library’s very popular and continually expanding collection of law-related movies and television series on DVD. The Maurice and Muriel Fulton Room remains an inviting location for students to enjoy popular magazines and newspapers.

The Law School’s library renovation transformed a building designed primarily for books into an attractive yet highly functional environment for student learning. “The wood furnishings and natural light create warmer, more desirable spaces,” notes 3L Christopher Lentz. “It’s an immeasurably better library to work in.”

**POST-RENOVATION CAPACITY**

- 500+ seats
- 90+ study tables
- 300+ open wire (network) connections
- 100+ carrels
- 88 specially designed laptop lockers, with outlets
- 44 book lockers
Books by Alumni

Alan Alop, ’71
The Best Team Ever: A Novel of America, Chicago, and the 1907 Cubs (Bascom Hill)
A baseball book, crime drama, and love story that follows the 1907 Chicago Cubs from the practice season to the World Series.

Nicholas Ashford, ’72
Environmental Law, Policy, and Economics: Reclaiming the Environmental Agenda (MIT Press) [with Charles Caldart]
A detailed discussion of issues in environmental law, policy, and economics, tracing their development over the past few decades through an examination of environmental law cases and commentaries by leading scholars.

Beth Boosalis Davis, ’74
Mayor Helen Boosalis: My Mother’s Life in Politics (University of Nebraska Press)
A biography of Helen Boosalis, who moved from being a housewife and volunteer to being elected the first female mayor of Lincoln, Nebraska, in 1975, and became a nationally prominent advocate for troubled U.S. cities.

Michael Conant, ’51
The Constitution and Economic Regulation: Objective Theory and Critical Commentary (Transaction)
Conant uses basic economic analysis as a technique to comment critically on the original meaning and the interpretation of those clauses of the Constitution that have particular bearing on the economy.

Stephanie Cooper Blum, ’99
The Necessary Evil of Preventive Detention in the War on Terror: A Plan for a More Moderate and Sustainable Solution (Cambia)
Cooper Blum explores the underlying rationales for preventive detention as a tool in the war on terror; analyzes the legal obstacles to creating a preventative detention regime; discusses how Israel and Britain have dealt with incapacitation and interrogation of terrorists; and compares several alternative ideas to the administration’s enemy combatant policy under a methodology that looks at questions of lawfulness, the balance between liberty and security, and institutional efficiency.

Michael J. Gerhardt, ’82
The Power of Precedent (Oxford University Press)
An account of the role precedent plays in judicial decisions, and an illustration of how constitutional law is made and evolves both in and outside of the courts.

Adam Hoff, ’07
Football Uncyclopedia: A Highly Opinionated Myth-Busting Guide to America’s Most Popular Game (Clariety) [with Michael Kun]
With a blend of statistical analysis, opinion, love for the game, and humor, Kun and Hoff challenge the myths and beliefs that have long afflicted football.

Jathan Janove, ’82
The Star Profile: A Management Tool to Unleash Employee Potential (Davies-Black)
Janove demonstrates through stories and examples how to spell out clearly and succinctly what is fundamentally important about each individual job and identify the desired employee behaviors that can be linked directly to the structure, systems, culture, and mission of the organization.

George W. Liebmann, ’63
Diplomacy between the Wars: Five Diplomats and the Shaping of the Modern World (I. B. Tauris)
A detailed, inside story of diplomacy as seen through the careers of five career diplomats: Lewis Einstein, Sir Horace Rumbold, Johann von Bernstorff, Count Carlo Sforza, and Ismet Inonu.

Thomas B. Nachbar, ’97
Focusing on operations occurring during and immediately following armed conflict, the handbook provides a framework, gleaned from practitioners, for conducting rule of law missions in the context of U.S. military interventions.

Joel Newman, ’71
This casebook introduces students to many of the materials a tax lawyer uses in practice cases, revenue rulings, private letter rulings, committee reports, joint committee prints, a congressional colloquy, and even an order dismissing a criminal indictment, for prosecutorial misconduct.

J. A. Renihan, ’42
Rubaiyat of Omar Khayyam: A Humanist Edition (Vantage)
Thirty-four verses gleaned from the original version that, with minor editing and variations, present the Rubaiyat without reference to a supernatural person or existence.

Walter Roth, ’52
Avengers and Defenders: Glimpses of Chicago’s Jewish Past (Academy Chicago)
Roth profiles well-known and little-known Jews from all walks of life and also writes about some of the city’s more violent history and how Jews were involved.

Stephan Wiiske, LLM ’96
Intellectual Property Law in Germany: Protector, Enforcement and Dispute Resolution (C. H. Beck/LexisNexis) [with Alexander R. Klatt and Matthias Sonntag]
Helps German and, especially, foreign practitioners quickly familiarize themselves with the main features of intellectual property rights in Germany, including how these relate to the rest of Europe.

The preceding list includes only the 2008 alumni publications brought to our attention by their authors. If your 2008 book is missing from this list, or if you have a 2009 book to announce, please send a citation and brief synopsis to jennifer@uchicago.edu. We will include these books in the next Alumni News column (Spring 2010).
1934
Louis “Studs” Terkel
October 31, 2008
Terkel, author and radio host, died in Chicago at age ninety-six. A graduate of the College, Terkel became known for his interviews on his radio show, which ran for forty-five years on WFMT. In 1967 he wrote Division Street: America, a groundbreaking work of oral history. Awarded an Alumni Association Professional Achievement Citation in 1978, Terkel received the 1985 Pulitzer Prize for The Good War: An Oral History of World War II. Other honors included the National Humanities Medal and the National Medal of Arts.

1937
Harold E. Spencer
December 11, 2008
After graduation from the Law School (Order of the Coif), Spencer began his law practice in Chicago. He handled several cases before the Interstate Commerce Commission and the federal courts, including the U.S. Supreme Court. During World War II, he served in the United States Navy. After the war, he was a partner in the Chicago law firm of Belnap, Spencer, McFarland & Herman until he retired in 1989.

1940
Bernard Apple
February 11, 2008
Sherwin H. Gaines
July 22, 2008
Gaines, of Evanston, Illinois, and formerly of Los Angeles and Palm Springs, California, died at age ninety-two. A graduate of the College, he served in the U.S. Coast Guard during World War II.

1941
Jerome Moritz
July 14, 2008
J. Leonard Schermer
September 13, 2008
Schermer, a longtime St. Louis labor lawyer, died at his home in Phoenix at the age of ninety. He practiced law for more than sixty-five years in St. Louis and Illinois. During his long career in St. Louis, he was a partner in Shifrin Treiman Agatstein & Schermer. In 1963, he argued National Labor Relations Board v. Adams Dairy before the U.S. Supreme Court.

1946
Albert L. Roemer
December 27, 2008
Roemer, a resident of Montgomery, Alabama, died at the age of ninety-two. He volunteered and served in the U.S. Army Air Force from 1941 to 1945, achieving the rank of Captain in Combat Intelligence. Taking advantage of the G.I. Bill of 1944, he received the first LLM (Master of Law) awarded from the University of Chicago in 1946. He was in the active practice of law in Montgomery for sixty-five years.

1947
John A. Cook
October 5, 2008
Cook died in Chicago at age eighty-seven. He was a World War II veteran and a graduate of the College. Cook moved to Chicago’s Old Town neighborhood as a young lawyer and helped found several groups that fought to preserve the neighborhood’s character, including the Lincoln Park Conservation Association and the Old Town Triangle Association. A practicing lawyer for sixty years, Cook worked at a number of downtown firms and as a solo practitioner, focusing on helping small to mid-sized businesses.

1948
Harold P. Green
July 19, 2008
Green, a lawyer and professor, died in Evergreen, Colorado. He was eighty-six. A World War II Army veteran, in 1950 he joined the Atomic Energy Commission’s General Counsel, where he was asked to draft disloyalty charges against J. Robert Oppenheimer. Believing that Oppenheimer was being railroaded, Green resigned soon afterward, becoming a partner at a Washington law firm and teaching law at George Washington University. Green was a graduate of the College.

Irving W. Konigsberg
December 18, 2008
Konigsberg, the former Mayor of University Heights and a leader in the Jewish community, died of pneumonia in Cleveland. He was eighty-five. Before becoming Mayor, Konigsberg served as a City Councilman for six years. He served as National Vice President of the Association of Reform Zionists of America, which he and his wife helped found to connect Reform Jews in the United States to Israel. Konigsberg was a partner of the Persky, Marker, Konigsberg, and Shapiro law firm. He was a graduate of the College.

Julius M. Lehrer
March 17, 2008
A graduate of the College, Lehrer was veteran of World War II. He received two Bronze Battle Stars and was a proud member of the American Legion Highland Park Post #145.
1949
Margaret K. Rosenheim
February 2, 2009
Rosenheim, a distinguished academic and expert on juvenile justice, died in San Francisco at the age of eighty-two. She joined the University of Chicago faculty in 1950 and was Dean of the School of Social Service Administration from 1978 to 1983. Specializing in the theory and practice of juvenile justice, Rosenheim wrote or cowrote many books on the issue and taught courses that surveyed several hundred years of juvenile justice. She worked with several public policy groups and was a consultant to the President’s Commission on Law Enforcement and Administration of Justice in 1966–67. She received the Norman Maclean Faculty Award from the University for her contributions to teaching and the student experience. For fifty-eight years she was married to the late professor Edward Rosenheim, a professor of English at the University.

1950
John McLean
October 2, 2008
McLean died in Portland, Oregon, at age eighty-three. During World War II, he served in the Army in Japan and Europe. A graduate of the College, he moved in 1960 to Portland, where he was an Assistant Attorney General, most recently for Oregon Attorney General David Frohmayer.

1951
F. Ronald Buoscio
September 5, 2008
Buoscio, a U.S. Army Veteran, was a graduate of the College. A practicing lawyer in Chicago for fifty-seven years, he was a member of numerous organizations, including the American, Illinois, and Chicago Bar Associations; the Knights of Columbus; and the South Chicago Chamber of Commerce.

Elliot S. Epstein
November 6, 2008
After completing service in the U.S. Army and then the Navy, Epstein attended the College and subsequently the Law School. After work as an Assistant District Attorney, he began a private practice as a founding partner of Cole, Wishner, Epstein, and Manilow. He was appointed by Illinois Governor Dan Walker as Director of the Illinois Department of Finance in 1973. He began a long and active participation in Democratic Party politics in the 1950s, working on the Presidential campaigns of Adlai Stevenson, followed by involvement in the campaigns of Congressman Sidney Yates, Congressman Abner Mikva, Alderman Leon Despres, and State Senator Dick Newhouse, as well as Governor Walker, among many others.

1953
M. Robert Ostrow
September 10, 2008
Ostrow, a World War II Navy veteran, completed his undergraduate degree at Northwestern University before attending law school. He worked in the State’s Attorney’s Office.

1960
Nathan P. Owen
March 23, 2008
Herbert I. Peck
November 12, 2008
1963
Robert A. Lindgren
October 13, 2008
Lindgren received a BA from Yale College in 1960. After graduating from law school, he joined the firm of Rogers & Wells, where he practiced law for thirty-five years, becoming a Senior Corporate Partner.

1964
Kenneth B. Newman
February 9, 2008
1972
Robert J. McCarthy
September 14, 2008
McCarthy died in San Francisco, California, at the age of sixty-one. His service in the District Attorney’s office in the late 1970s launched a professional and political career marked by dedication to the interests of the people of San Francisco and the Democratic Party. Among his many civic activities, McCarthy was appointed by President Clinton to the Woodrow Wilson Center Board of Trustees. He served as a member of numerous community organizations.

1976
Mark E. Grummer
November 3, 2008
Grummer died in Washington, D.C., of colon cancer two days after his fifty-eighth birthday. He spent much of his career in environmental law in the Department of Justice, Washington, D.C., and most recently with Chicago-based Kirkland and Ellis in Washington.

1978
Laurence Dean Jackson
January 27, 2009
Jackson died in Los Angeles after a long battle with carcinoid cancer. He was fifty-three. After graduating from the University of Iowa and receiving his law degree, he moved to California. In 1994, he and his wife started Christa & Jackson, a litigation boutique specializing in contract disputes and class-action defense, often for international clients.

1980
Eugene Judson Vaughan
January 26, 2009
Vaughan died in Chicago at age sixty-one. He graduated with honors from Carleton College prior to law school. Vaughan worked as a lawyer before revisiting his passion for language and education as a textbook editor. He was a dedicated tutor at Christopher House in Chicago.

1993
Jennifer Lynn Hampton
September 2, 2008
Hampton died at Hospice LaGrange at age fifty. She had been a professor at LaGrange College since 2000. Hampton volunteered for Animal Rescue Groups and did pro bono legal work for the American Red Cross, Decatur Legal Aid Society, and City of Franklin.

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Class Notes Section – REDACTED

for issues of privacy
A Life into Art

In recounting the extraordinary life of Judith Weinshall Liberman, ’54, it is illustrative to begin with an account submitted by a classmate of hers to the Record in 2008. He recalls a visit by Supreme Court Justice Felix Frankfurter to a class at the Law School:

“Our class was asked whether there were any questions for the Justice. Judith immediately rose to the occasion and started inquiring from the Justice how he could possibly have ruled the way he had in a recent case... She really had our guest backed to the wall and wasn’t letting up... It became quite obvious to all of us why Judith was first in our Class of ’54. What a brilliant mind...”

In her 2007 autobiography, My Life into Art, Liberman says that in a meeting later that day Frankfurter encouraged her to apply for a federal clerkship. “I told Justice Frankfurter,” she reports, “that I was from Israel and was eager to get back there without delay as soon as I graduated from law school without taking time off to serve as a clerk.”

She had left her home in Haifa, Israel (then Palestine), in 1947 at the age of eighteen to come to the United States. Her parents had moved to Palestine from Russia in 1920 so they could participate in the creation of a Jewish state, and Judith’s mission in the United States was to become educated in “Western” skills and perspectives so that she could return home and contribute to her country’s development. Her brother, Saul, was dispatched to London for the same purpose. In 1948, Saul returned home to fight for the newly created State of Israel and was killed in a battle near Gaza.

Although she longed to go back to Israel herself, she was instructed by her parents to remain in the United States. She studied journalism at Syracuse and earned a political science degree from the University of California at Berkeley before taking up graduate studies in political science at the University of Chicago. After completing her thesis she enrolled in the Law School, where she was one of four women in her class.

While she was in Law School she met and married Robert Liberman, ’48. They went together to Israel shortly after her graduation. He taught at a law school and she edited an economics magazine and taught a law school course. It wasn’t long before she realized, wrenchingly, that her professional life was not emotionally satisfying for her. “I had been living other people’s lives instead of my own, dreaming their dreams instead of mine,” she recalls today.

She and Robert returned to the United States. Robert obtained a law faculty position at Boston University that he held until his death in 1986. Not long after the first of their two children was born in 1957, Judith encountered a magazine advertisement for the Famous Artists School urging readers to take an art aptitude test and soon she was enrolled in a correspondence course for beginning artists. Twenty-five years of diligent study followed, at virtually every art institution in the Boston area. During that time and afterward she produced series after series of paintings exploring the human condition, series that included Mother and Child, Vietnam, Skulls, and Homo Sapiens.

After Robert’s death she began her renowned Holocaust-related works, more than two hundred and fifty paintings and wall hangings devoted to that topic. “It was a tribute to him, in a way,” she says. “He was in the U.S. Air Force during the Second World War and saw Dachau and other concentration camps soon after they were liberated. That experience never left him.”

She still is painting, adding to the more than one thousand works she has created, hundreds of which are in the collections of museums and other public institutions. “It might seem that law school was just an incidental precursor to my actual career as an artist,” she says, “but the connection is much stronger than that. Like an attorney, an artist is making an argument, and you have to know how to present it: what to include, what to emphasize, how to capture your audience’s attention, what to leave out. All those skills were taught to me at the University of Chicago Law School. I am very, very grateful for the aptitudes I was fortunate enough to acquire at that great place of learning.”

Judith Weinshall Liberman’s art can be seen at www.libermanart.com, where there are also links to a video about her Holocaust wall hangings and to further information about her autobiography, My Life into Art.
Diplomatic to the Core

The opening of the American embassy in Beijing in 1979 signaled the restoration of full diplomatic ties between the United States and China after years of estrangement. Among the first to staff that crucial American outpost was Foreign Service Officer Morton Holbrook III, ’72. Over the thirty years since then, in positions of increasing responsibility, Holbrook has participated in and observed the evolving relationship between what are now the world’s two most powerful nations.

Holbrook’s law degree helped him land a position on the legal staff of Secretary of State Henry Kissinger as his first Foreign Service assignment. There, among other things, he crafted the format for the first human rights reports issued by the State Department—reports that he himself would later prepare regarding China from his embassy post.

“Throughout my career, the training I received at the Law School helped qualify me for many significant opportunities that I wouldn’t have had otherwise,” he recalls.

In 1977 he was assigned to Taiwan, where he continued the process of learning Chinese that he had begun while acquiring a master’s in Far Eastern studies, and where he met his wife, Shao Pei. At the embassy in Beijing from 1979 to 1983, he participated in the momentous events that followed the historic reopening of diplomatic relations, helping to create formative bilateral agreements on a wide range of political, economic, and cultural topics. He had a major role in drafting and negotiating the Consular Convention, which set the rules for how each country must treat the other’s citizens and became the first U.S.-China treaty ratified by the Senate.

After some time back in the United States, he returned to China in 1990 as U.S. Consul General in Shenyang. “Being consul general is a good-news assignment,” he says. “The hard issues between countries are handled in embassies. In the consulates, work is normally directed at promoting friendly relations, not at resolving bilateral disputes.” The territory covered by his consulate included more than 100 million people, and as Holbrook recounts his experiences it seems clear that he accepted personal responsibility for promoting friendly relations with each one of them.

His third assignment in Beijing lasted from 1996 to 1999. He recounts with particular satisfaction an incident from President Clinton’s 1998 visit. “For this visit, our priority was to persuade the Chinese to televise live the President’s speech at Beijing University. The day before that speech, Clinton and [Chinese president] Jiang Zemin were scheduled to have a short press conference at the Great Hall of the People, with time for only a few questions. Instead, as the conference proceeded, Jiang took the initiative, and without being asked by reporters he made comments regarding Tibet, one of the most sensitive issues in the relationship. President Clinton, of course, responded with the U.S. perspective, and the two leaders launched into an unplanned, unscripted discussion of human rights—that was televised live inside China!”

Realistic about China’s shortcomings and about tensions within the bilateral relationship, Holbrook also has a nearly unique perspective for an American on how far things have come. He recalls: “There was hardly a trace of the outside world in Beijing when I first arrived. There were signs on every road out of the city stating ‘No Foreigners Beyond This Point’ in English, Russian, Chinese, and Japanese; now travel anywhere in China is virtually unimpeded. In 1979, foreign investment was banned; today China is the most popular place to invest in the world. There was no trade to speak of with the United States in 1979; today China is America’s number-two trading partner after Canada.”

“Overall,” he continues, “from a narrow relationship based on mutual antipathy toward the Soviet Union, we now have very broad relations, which have exhibited fundamental consistency for thirty years. Not perfection, but consistency.”

After a career that also included postings in New York, Washington, Tokyo, Manila, and Paris, Morton Holbrook is now embarked on a new adventure in China and a new way of contributing to bilateral relations. He serves on the faculty at United International College in Zhuhai, where he teaches courses on U.S.-China relations, international political economy, and the Chinese legal system.
An Early Adopter Focuses on Sustainability

After just a few years of working as an associate after graduation, David Phillips, ’88, recognized that big-firm lawyering wasn’t what he was cut out for. In 1991 he formed a company that sold computer equipment, much of it overseas. One day as he was researching a question about Chilean customs law on the rudimentary World Wide Web, he discovered that he could link directly into the law library at the University of Chile. “I couldn’t get answers to all my questions,” he says, “but the potential power of that connectivity was startling, and I wanted to know more about it and participate in some way if I could.”

He didn’t just participate, he led. And he still is leading today.

In 1994 he was hired as the second lawyer at a small company headquartered in a nondescript building behind a car dealership in northern Virginia. The company, America Online (AOL), did pretty well, and within a couple of years Phillips was managing a team of 25 lawyers who helped construct the initial legal architecture of the online world. He recalls, “[AOL founder] Steve Case always challenged us to consider ourselves as the framers of a constitution for an entirely new dimension of society. He wanted us to think beyond AOL’s immediate issues and try to create a governing structure that could last for many years.”

Phillips’s impact was expanded when he became general counsel at AOL Europe in 1997. In 1999, after AOL bought Netscape Europe and Compuserve Europe (with Phillips serving as lead negotiator on the Compuserve deal), he stepped from his legal role into the position of AOL’s managing director in the UK, charged with strategically integrating the three brands.

An even grander vista loomed as AOL merged with Time Warner the next year, but Phillips decided to move on to another blossoming part of the digital landscape, becoming CEO of Crunch Music, an Irish subsidiary of AOL that eventually became AOL Europe. As Phillips points out, “In 1999 AOL was the first company to buy its way into the music industry, with a subsidiary of a subsidiary focused on providing music online. When the business world now looks at the AAPL, Amazon, Google, and Facebook, AOL was a pioneer.”

David Phillips, ’88

Phillips has remained at the forefront of how law and business merge, overseeing the development of one of the world’s largest digital music businesses, including its participation in the Napster case in the United States.

The digital downloading and trading of music has raised complex legal and ethical issues throughout this decade, and Phillips’s work in handling them has earned him the respect of colleagues and customers alike. In 2002, Business Week named him to its list of “The New Rock Stars of the Music Industry,” and he has been widely quoted in the press. Phillips’s views on the industry’s future and its place in society have been sought by the United Nations and the United States Senate.

In 2007 he co-founded DeviceLink, an organization that seeks to standardize mobile device interfaces, and in 2008 he became a visiting professor at the University of Virginia School of Law, where he has taught courses in privacy and technology law.

Phillips is a visiting professor at the University of Virginia School of Law, where he has taught courses in privacy and technology law. He is also a member of the Heritage Foundation’s board of trustees, an organization dedicated to promoting free-market principles and conservative values.

The University of Chicago Law School is proud to have had Phillips as a student and to have seen him rise to such prominence in the legal and business worlds. His contributions to the field of law and his commitment to the ethics of business have made him a role model for future generations of lawyers.
Slaying the Legal Research Goliaths

Fresh out of college at Georgetown, twenty-one years old, Ed Walters, ‘96, was one of only two politically appointed Democrats working in the White House of President George H. W. Bush. He was on the president’s speechwriting team. Some of his political leanings must have slipped into his compositions, because he vividly recalls the day when Bush’s powerful chief of staff, John Sununu, could be heard throughout the White House thunderously demanding to know “Who is Ed Walters and what is his agenda?”

Despite Sununu’s consternation, Walters retained his job until his boss was voted out of office. Not many years later, though, Walters was perturbing the powerful again, this time in a business context. In 1999 he left his job as an associate at a prestigious law firm to devote himself to creating a new enterprise that would go up against two formidable corporate giants. “It was David against Goliath, except there were two Goliaths,” he recounts.

The Goliaths were Westlaw and Lexis. The company that Walters founded, Fastcase (www.fastcase.com), provides state-of-the-art legal searching capability at a fraction of the Goliaths’ prices, employing a search algorithm that quickly finds the specific case a user is looking for. “Our technology solves the needle-in-a-haystack problem of traditional legal research systems, where too often you have to go through screen after screen to find the case you need,” Walter explains. “Fastcase works like Google: The best results show up at the top of your search results, not on page eleven or page forty.”

Fastcase users can sort their searches according to several criteria, including the number of citations to other cases in the search results, the date of the decision, the jurisdiction, and the authority of the court that rendered the decision.

While his giant competitors were raking in billions of dollars in annual revenues, Walters financed his fledgling operation by maxing out his credit cards and emptying his retirement account. It was more than two years before Fastcase signed up its first customer. “We created this company during the days when the Internet bubble had burst, and because our service is web-based, many people thought we were just another flash-in-the-pan dotcom,” Walters says.

The doubters were wrong. Fastcase now has enrolled more than 340,000 of America’s 1.1 million lawyers, and it is growing fast. Fourteen state bar associations make Fastcase available to all their members, and Walters says the company has been signing up a new state bar almost every other month. Because it is affordable and efficient, Fastcase is poised for further strong growth in today’s tough economic times as many lawyers and their clients are more closely watching expenses.

Fastcase also has created an Internet site for nonlawyers, the Public Library of Law (plol.org), which offers access to more than two million pages of cases, making it the largest free web-based law library.

Many people and experiences from his days at the Law School helped Walters build Fastcase. He says: “A lot of my friends provided both encouragement and advice; for example, when we obtained some modest venture financing, friends who had gone into that field helped guide me through the negotiations. Several professors have encouraged and supported me in ways that really have meant a lot. And let me tell you—one you survive Professor Helmholtz’s Socratic questioning, most negotiations or business presentations hold very little fear by comparison.”

Walters observes, “When you succeed, you’re called an entrepreneur, but if you fail they just call you crazy.” Whatever he may have been called in the early years when he was liquidating his assets to pursue his dream, today Ed Walters’s willingness to confront industry giants, and his success at doing so, have earned him the accolades due to a true entrepreneur.

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Labor and employment group of the Chicago-based firm of Medler Bulger Tilson Marick & Pearson L.P. Katherine Strandburg is also on the move—she has just accepted an offer from NYU Law School and will begin teaching there in the fall. Congratulations!

BJARNE TELLMANN sent his end of year note, most of which is too long to include here. I’ll just include the stuff about Bjarnie: “The first half of the year was characterized by a hectic amount of work-related travel, which took me far from home more often than I care to remember. On the bright side, I saw some interesting locations along the way (including Istanbul, Manila, Kuala Lumpur, Hong Kong, Shanghai, and Singapore) and got a chance to see some of you on my travels to Europe and the States. The second half of the year brought the credit crunch and far less travel, which happily meant more time with the family. As for extracurricular activities, I continue to enjoy Krav Maga (a full-contact Israeli self-defense system) whenever time permits and have also been taking Muay Thai (Thai Boxing) lessons.”

Han Li Toh writes, “For 2008, I went back to being a student of public policy at the Lee Kuan Yew School of Public Policy in Singapore, which included a semester at Harvard’s Kennedy School of Government. It was great to be in the U.S. for the Presidential Elections, especially since the President was from the U of C Law School faculty! I have two kids now, Emma and Gabriel (ages nine and seven), who have started elementary school. For 2009, I have started a new job as the Assistant
JOIN US FOR AN ALUMNI WINE MESS
AT THE ART INSTITUTE OF CHICAGO
FRIDAY, MAY 1, 2009
5:45 p.m. – 7:30 p.m.
The Stock Exchange Room at
the Art Institute of Chicago
230 South Columbus Drive
RSVP to mmccarthy@uchicago.edu or (773) 702.5158
For information about other activities occurring
over the Law School’s Reunion Weekend, visit
www.law.uchicago.edu/alumni/reunion/.

From the Green Lounge to the White House
An Unusual Election Year in Hyde Park
Thomas Ginsburg and Colleagues
Examine Constitutional Durability