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

—William Rainey Harper
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Message from the Dean

Dear friends—

The quote on our cover is probably as familiar to all of you as it is to me. For over a hundred years, we have been guided by President Harper’s words when planning our curriculum, hiring our faculty, and thinking about our future. In many ways, those words, and the powerful ideas behind them, made the Law School what it is today.

The concept of interdisciplinary education and scholarship is so ubiquitous today in academia—not just in law schools—as to have become a cliché. At many schools, that’s all it ever is—a nice-sounding idea that looks great in the brochure but has no real effect on the actual life of the school. But at Chicago, we have never much cared for fads or fashions, never lived and died by what everyone else is doing. We proceed down the path that is best for our students, faculty, and alumni, and that path, since our founding, has been to engage with the University as a whole and to bring the very best of what it has to offer within our walls and embrace it.

This is the Law School where, in 1904, Ernst Freund stood up to the doubters to say that the ideas and scholars of philosophy, sociology, business, history, and many others not only belonged within a law school but were absolutely required for a proper understanding of our world. This is the Law School where law first met economics, and magic happened that forever changed the entirety of legal thought. This is the Law School where faculty collaboration is the norm, never the exception, and where that collaboration extends to colleagues beyond Freund’s imaginings—not just to Booth and Harris, but to the math department and the med school, to the Smart Museum and to Fermilab.

Through interdisciplinary scholarship and teaching, we are able to better understand the place of law in the world at large and the place of the world in the law. Philosophy helps us to understand the truth at the core of law, and sociology helps us to understand how humans interact with it. History illuminates the role of law in our past and joins with psychology to teach us how to use those lessons in the future. With economics and science at our disposal, we can understand both how best to make laws that work for their intended purpose and how to use them to influence scientific discovery and effect real change. Studying law in a vacuum makes law not only less interesting to study but far less relevant and useful. Providing law with context gives law the power to make a difference—to change the world.

In this issue, you will read how William Rainey Harper’s words and Ernst Freund’s vision are not only surviving but thriving in the Law School today. You will learn about how cross-legal and cross-departmental study is enriching our student experience and how the rise of the PhD as a faculty credential is affecting the faculty. You will learn about our work combining law with medicine, history, economics, philosophy, and literature. And you will probably, as I did, read these articles and wish you were a student again.

Warm regards,

Michael H. Schill
The Past, Present, and Future of Interdisciplinarity: A Faculty Roundtable Discussion
To anchor this issue’s theme about interdisciplinarity at the University of Chicago Law School, the Record asked Professor Alison LaCroix to moderate a discussion with six other faculty members who heavily engage in interdisciplinary work. As you will read in their comments, the history of interdisciplinary work goes back to the founding of the Law School and continues in top form today, bringing an unmatched spirit of collegiality and rigor to the Law School community, as well as some unique challenges for its scholars.

ALISON LACROIX: Welcome to this conversation about interdisciplinary work at the University of Chicago Law School. I’ll ask everyone to quickly introduce themselves.

RICHARD HELMHOLZ: I have a PhD in history, and I’m interested in medieval and early modern European history. I teach property law and connected subjects.

BRIAN LEITER: I have both a law degree and a PhD in philosophy. I teach jurisprudence, evidence, and a variety of law and philosophy-related topics.

ANUP MALANI: I have a PhD in economics here from the university and a JD also from the University of Chicago. I teach law and economics and health economics.

DAVID WEISBACH: I think I’m the only person on the panel without a PhD. I have just a JD, and I teach tax law and also do a lot of research in climate change.

MARTHA NUSSBAUM: I guess I’m the only person without a JD. I’m in the Philosophy Department and the Law School at this University, and I work on moral and political thought. I teach theories of social justice, feminist philosophy, and other related issues.

THOMAS MILES: I have a law degree and a PhD in economics. I write and teach in the areas of criminal law, securities regulation, and judicial behavior.

LACROIX: And I have a PhD in history and a JD. I teach constitutional law and American legal history and related subjects. I think it is interesting how each of us came to teach in the Law School but have this interest and expertise in another field. Let’s start with that.

HELMHOLZ: My story is pretty simple. After I got a PhD in history, I was going to be a history teacher and was hired as one, then discovered that I was going to be fired after my first year. But the law school at Washington University where I then taught history was desperate because they increased the size of their class. They were so desperate that they hired me (in May). I found out that I liked teaching in the law school and they kept me on. It’s as simple as that for me.
HELMHOLZ: I had already been to law school so I guess they had some excuse.
LEITER: I think my own story is a similar sort of happenstance.
HELMHOLZ: Really!
LEITER: Yeah, I went to law school first, and I went to practice in New York with a large firm, then I reapplied to the PhD program at the University of Michigan. This was 1992, before Al Gore invented the internet … there was no information and so I didn’t know how and when to go on the law teaching market. By happenstance I had written something in a law review. In fact, the subject of it was the misuse of philosophy by law professors, a topic that Martha and I are well familiar with. (It was much worse twenty years ago than it is now.) Various law professors told me how to go on the law teaching market, and so just went at the last minute. I got a job in a law school and have never looked back. I’ve never taught legal philosophy or jurisprudence to undergraduates, and I have no desire to because the big advantage of teaching it to law students is they actually know something about the law. It’s much more satisfying teaching it to law students.
MALANI: My story is much more complicated than Dick’s. After I graduated I applied to law schools and econ grad schools, got in here, but you had to choose when I decided, and so I chose economics first. I thought I was going to become an econometrician and then I met Judge Richard Posner, who intrigued me with his research, and we got to talking and he convinced me to give law another shot. And after law school it was just timing that determined what I did. I hadn’t quite finished my PhD, but I had my JD and it was easy to go on the market in law and so I did.
LACROIX: Mine is also a little bit complicated. I went to law school straight out of college, where I had been a history major. Right at the beginning of law school I also started thinking about history graduate school seriously, and then in law school I learned that one actually could blend history and law in a way I had never realized. I decided to finish law school and do law on its own terms before thinking again about whether to do history graduate school. I started working at a big firm, and I gave myself a deadline of two years and I thought, “If I like it, great, but if I don’t, I’ll apply to history PhD programs.” From the beginning I thought that I probably wanted to teach in a law school because I thought that the subjects I was interested in would require more of a legal framework as opposed to being purely historical. In many colleges and undergraduate history departments there’s more of an awareness now of legal history as a methodology, where not that long ago it was more something that was done in law schools.
WEISBACH: My history is a little different because I don’t have a PhD. I came here because it’s a great law school and a great place to teach. For the first five or eight years of teaching or writing, I really wrote in tax as a tax lawyer. It’s only in the last five to ten years that I’ve really been doing interdisciplinary work, mostly because of my interest in climate change. Here, basically you walk across campus and say hello to some scientists and next thing you know we have an NSF center with 10 or 20 people at it that is doing interdisciplinary work on climate change with large-scale computational modeling of the problem, and you can actually use that modeling to think about legal issues. I really came to interdisciplinary work later in my career, and I stayed at Chicago rather than going somewhere else because of its welcoming nature for interdisciplinary work.
NUSSBAUM: I taught for more than fifteen years in a philosophy department before I ever had any connection with law school. But I found myself getting these invitations to present my work at legal theory workshops and I thought, “What’s this all about? I’m not talking about law.” I found when I got there that there were debates about the nature of legal reasoning that really tracked debates in philosophy about the nature of practical reasoning—debates between utilitarians and people who are somewhat critical of utilitarianism. Then I was invited to visit at this law school and I really loved the visit, I loved the culture. We haven’t talked about literature yet … what I was teaching was law in literature, and ever since I’ve come here I have regularly taught law and literature, often with Richard Posner. That’s another thing that attracts me to this law school: the potential for thinking about the impact of literary texts in the law, the role that literature plays in engaging critically with legal cultures. Every two years we give a law and literature conference [see page 10]. Many of our faculty, including law and economics faculty, give papers on literature, so that’s another remarkable and lovely instance of border crossing.
MILES: I also feel like my trajectory is peppered with these random chance events. I came to the University of Chicago to get a PhD in economics. I was always interested in understanding what the economic effects of regulation were and what the economic sources of regulation were. When it came time to sit down to write what would be
my first scholarly article in economics, I was studying something that had causes of action that arose in tort and others that arose in contract. And I remember reading that, thinking, “What is the difference between a tort and a contract? I have no idea.” It occurred to me that if I wanted to make a career of this, I really needed formal training. That prompted me to go to law school.

LACROIX: Let’s talk about the history of interdisciplinary work at the University of Chicago and think about how what we do at the Law School might be different from other law schools, given the history of the university and its commitment to interdisciplinarity.

NUSSBAUM: Ernst Freund, who was a political scientist from Germany who had an American law degree, was really the chief founder of the University of Chicago Law School in 1902. His idea was that practitioners really need a broader study of society because they’re going to go out there and they’re going to have to think about social problems. They really need sociology, economics, history, philosophy, and other related disciplines to think in a more critical and detached way. So from the very beginning that’s what we tried to do.

MALANI: Law and economics has deep roots at the University of Chicago Law School. Things started with Aaron Director, who was just a PhD, but taught at the Law School and had a huge influence on legal scholarship here. He taught a famous antitrust course with Ed Levi that was famously combative and got the tradition of law and economics started. We also had Ronald Coase join the faculty, the only Nobel Prize winner in economics at a law school.

WEISBACH: We also had Henry Simons on the faculty, too. He was a pure economist.

LEITER: Richard Posner came here because of Aaron Director. He was originally out at Stanford while Aaron Director was visiting, and he was so impressed by Director that Dick decided to give up northern California weather and come straight to Hyde Park and never left.

LACROIX: A related question is, how relevant is a PhD in each of these areas? Among us here we have legal history, law and philosophy, law and economics, law and medicine. What does everyone think about having actual PhD training or not?

NUSSBAUM: I think in philosophy PhD training is pretty important because all the different areas of philosophy are pertinent to thinking about law. There are so many ways in which philosophical concepts intersect with the law in different areas, so if you don’t have the kind of broad-based training that includes logic, epistemology, metaphysics, and moral and political philosophy, and the history of all
those, then you’re probably not going to be well equipped to figure out what the interesting problems at the interface of law are.

WEISBACH: In law and economics, it used to be the case that most of the people doing it did not have PhDs. Now increasingly it’s the case that virtually everyone doing it has PhDs, and I think the trend will only be enforced in the future as those people feel like it’s a more and more technical field.

LACROIX: That’s also been a trend in legal history. For decades it was something that followed naturally from property or constitutional law and there were a lot of people who looked at historical sources, but legal history has really burgeoned in the last few decades. Now most people have joint degree training or graduate-level training in history as well as a JD.

HELMHOLZ: I’d like to sound a note of caution on that. It’s certainly true what Alison says about the rising number of joint PhD-JD members of law school faculties, but if you think back about the great legal historians, it’s not true that they all had PhDs. It’s certainly possible to do really good work with just a law degree and even with just a history degree. Charles Gray was a wonderful legal historian on the faculty here for a very long time and had only a PhD, but he fully understood law and made some real contributions to the field. Certainly he did so to the benefit of the University of Chicago.

MALANI: I do agree that lawyers can make an important contribution to law and economics without a PhD and, in fact, a lot of the seminal work has been done by lawyers who do not have a PhD. But I think that that becomes harder and harder over time as the fields become more technical on both the theoretical side and the empirical side. That said, we also find really interesting work that’s being done by pure PhDs without a JD in law and economics. The only shortcoming of that work is the lack of knowledge about institutional design and specific laws, but more general theories have been quite insightful.

WEISBACH: My strategy has been to coauthor with PhD economists, and that allows me to have knowledge of the law and legal institutions combined with their technical apparatus to produce papers. I’ve been doing a series of coauthored papers now with economists or with scientists in climate change.

LACROIX: There are many historians of law or historians who have used legal sources. But it’s also true that to the extent you want to talk about legal institutions, bigger pictures about kind of how law develops or how it’s interacting with politics, it would be hard to do that if you were completely detached from law. That’s where our interdisciplinarity dovetails really well with the fact that our law school is so committed to law and knowing about how law actually functions on the ground. It’s not ethereal “law and”—it’s rooted in these different ways in law.

NUSSBAUM: Freund himself, who had a PhD in political theory, did pioneering work on the police power. He was the first person that argued that the free-speech rights of dissenters in wartime were protected by the First Amendment. He needed the PhD to do that at the level of depth that he did, but he also needed immersion in the law. Philosophers often go and write about free speech or some other legal issue, but if they don’t have enough immersion in the culture of the law school sometimes it just doesn’t work properly. Maybe you don’t need the JD, but you do need that detailed immersion, and in my case I don’t feel that I could have gotten that by coauthorship. That’s why I moved from a very good philosophy department that didn’t have a law school to this wonderful university which does have a law school.

LACROIX: What about the student experience or teaching? All of us teach in different ways in interdisciplinary courses as well as more purely doctrinal courses.

WEISBACH: I teach a course in climate change, and I was thinking about the history of the teaching of environmental law at this law school. Back in the 1970s David Currie
cotaught a course with Steve Berry in the chemistry department on environmental policy and law. So we’ve been doing interdisciplinary teaching for many, many decades. Indeed, in the 1970s it would have seemed extraordinary at any other law school to offer such a course. **NUSSBAUM:** I do three sorts of things. Since I’m appointed in the Philosophy Department, I teach a graduate seminar in philosophy, which law students can take. They can take it only if they have some background in philosophy, so those are the zealots. But then I deliberately offer courses for law students. Right now I’m offering a course in Rawls’s Theory of Justice, and it’s to give them a critical perspective on justice, which they might not get from the law courses alone. Then the third thing is coteaching, and I coteach regularly with David Weisbach. We’ve done a seminar on distribution taxes and social justice and also one on global inequality. There are the two sorts of expertise—we learn from each other, we challenge each other, and I think the students get a lot out of that.

**MALANI:** I teach in different departments and what I find to be the best value that I can add is teaching people new perspectives. If I’m teaching in the Law School, whether it’s a course on health law or on law and economics, I assume the students know law pretty well. What I try to do is add the economic components. Conversely, when I teach a law and economics course in the econ PhD program, I’ll spend a lot more time on law and legal structure, give a lot of details on institutional design. That’s the value added. That’s the stuff that they can’t pick up just by reading economics articles. I think that that’s a really big deal—it opens their eyes to other ways of thinking and the fact that there are other scholars out there asking and answering different questions.

**NUSSBAUM:** I think this kind of coteaching with people from different interdisciplinary subfields is pretty unique at this law school. It’s part of the pleasure of being at a very small law school that we’re all talking to each other all the time, and it’s easy to get joint projects and ideas because we’re all reading each other’s work all the time. I think it is much harder at a larger law school.

**MILES:** Several of us on the panel also teach courses that are strictly law in a sense, right? Some of us teach in the 1L curriculum. In there, the student views the course as being about contract law or tort law—they don’t view it as being necessarily interdisciplinary. But when we think about some of the concepts that get taught in those subjects, they are interdisciplinary. They’ve become so ingrained, they are now considered to be legal concepts, but really they came from other disciplines. Here at Chicago, the Coase theorem would be a leading example of that. I think that the students don’t perceive themselves as having an interdisciplinary experience in those courses. I think they view themselves as having an experience that’s the experience one has in a traditional law course.

**LACROIX:** Do you find that, Brian, in evidence?

**LEITER:** Evidence is tricky. There’s a way in which evidence is applied epistemology, and I sometimes get complaints from the students that I don’t do more philosophy in the class. I used to teach constitutional law and then I switched to evidence many years ago, and one of my teachers said, “Brian, in evidence you can get things wrong and there are actual rules in evidence.” There is a body of clear doctrine they really have to learn in evidence. I do give them one heavy dose of philosophy, however, when we do the famous Daubert opinion, which changed the rules about the admissibility of scientific evidence. There the United States Supreme Court made the grave error of citing both Karl Popper and Carl Hempel, two great philosophers of science who hold opposing views, but they didn’t realize it.

**LACROIX:** What about students after they leave here? Do we have a sense of how this interdisciplinary grounding that they get, affects them—whether they take, as Tom pointed out, courses across the Midway or they’re getting it through doctrinal black letter courses. How does that affect them as alumni or in their careers?

**LEITER:** I will say that every single student that’s ever taken jurisprudence with me who’s gone on to clerk always
comes back and says, “You know what? The legal realists were right.” [LAUGHTER] So I’ve called jurisprudence the practical course that I teach around here.

NUSSBAUM: I’ve found that it often affects their eagerness to do pro bono cases where they can put their interest in social justice to work. I have students who are working at large corporate firms, but then they seek out interesting cases about gay bullying or about mental illness and involuntary confinement.

WEISBACH: I’ve been teaching courses in climate change over the last few years. There having an understanding of the science and the economics of the problem is really central to the practice. The students are just now starting to graduate, and we’ll see how they do in their careers, but I don’t think you can actually practice in environmental law or in climate change without having a good understanding of the scientific aspects of the problem.

LACROIX: More students in recent years have checked back in a few years out to say, “I’m thinking about maybe doing some graduate work or going into legal academia in a more interdisciplinary vein,” and it’s good that they also feel like they have people to come back and talk to. That’s the experience a lot of us have had.

NUSSBAUM: They also know more about the limits of our knowledge. When we teach global inequality, one of the things we want people to realize is all these theories are not very well grounded and people disagree hugely. If people were to just cite one theory and say this is the way things are in the developing world, they would be making a big mistake. We want them to avoid that mistake and be humble about how much we know.

LACROIX: What difference does it make—if it makes a difference at all—that we have a lot of interactions with these other departments? On the one hand, you might say interdisciplinary work makes the Law School very far-flung and each person is doing something in conjunction with the relevant department or school. Yet we have, as people have alluded to, such a tight-knit Law School community.

NUSSBAUM: What’s really important is how it feeds into our own research culture here. I work on some topics that are pretty far from law at times. I even have been known to work on the aesthetics of music. Right now I’m working on the emotion of anger. When I give a Work-in-Progress workshop, the philosophy colleagues might give me comments a year later, but the law faculty will give me very valuable comments right now. No one thinks because it’s this far-flung topic that they’re not going to bother to go to that workshop, and I’m very grateful for that. It really enriches what I’m able to do and, of course, I try to pay back in kind.

WEISBACH: The University of Chicago is unique in your ability to walk across campus and meet people and work with them. But if you do a paper that’s quite technical and there’s a lot of science or a lot of sophisticated economic modeling in it, then it is hard to present it to a general faculty workshop and expect to get really great comments because people just don’t know very much about what you’re talking about. You’ll get some good comments from very smart people, but a lot of stuff you present is foreign to people on the faculty and therefore it’s hard for them to access it.

MALANI: The University of Chicago community as a whole—not just the Law School—is actually quite small, so it’s easy to reach out to people in different departments. I’ve been able to work with people in the medical school, in the economics department, psychology, business school, and public policy school, but the geographic proximity is such that it doesn’t feel like I’m going very far to do that. We have a relatively small campus. Plus, as it turns out it’s not just me reaching across the Midway to these individuals, they often write with each other. So I often see that one coauthor of mine wrote with another coauthor. The community feels very tight-knit. I really think it’s the University and not just the Law School that’s intertwined.

LACROIX: Is there a hazard in the increased specialization which we’ve been talking about in the “law and” version of something becoming isolated from its mainstream? So an example in history is that I do sometimes worry that legal history means, for instance, I write on the history of
federalism. Does that become a kind of law school legal history topic as opposed to say a history department legal history topic?

NUSSBAUM: It’s a risk when it’s not done well. Maybe that’s sort of tautologous, but in law journals I do see a lot of bad philosophy done by people in law schools who don’t really know what they’re doing in philosophy. I think they wouldn’t be able to publish those things if the submitted them to a philosophy journal. That’s why I think having close associations with the department in the relevant area and having PhDs on the Law School faculty prevents us from falling into that very real trap.

MILES: I remember that our Law Review hosted a symposium 20 years ago on “The Future of Law in Economics.” They got Gary Becker and Ronald Coase to come and be on a panel, and it’s in the Law Review and one can go and read it. [64 U Chi L Rev 1132 (1997).] Coase said that he thought that what was going on within economics was that economics departments were becoming theology departments, that the applied work—work about what’s going on in the world and how institutions are functioning—was migrating out of economics departments and into other places like business schools, policy schools, and law schools.

WEISBACH: Well, there is no law and economics really done in econ departments anymore; it’s all done at law schools.

MILES: There is this real choice that we, as interdisciplinary scholars, face in deciding where we want to put our work. Do we want to subject it to the peer review process and put in a peer-reviewed journal, either in a kind of “law and” peer-reviewed journal or a pure disciplinary journal, or do we want to put it into a student-edited law review? Those reach very different audiences. I think that is a really difficult choice for people who are starting out wanting to do interdisciplinary work.

WEISBACH: You do both.

MILES: You have to do both.

MALANI: It’s true not just for law and economics. In general, applied work has migrated out of economics departments. Look at other subfields of economics that are not traditional subjects like labor. A lot of the really good health economics work these days is being done in medical schools and public policy schools (and even in law schools), not so much in economics departments. It’s more of a commentary on economics.

NUSSBAUM: I think in philosophy the work suffers, and I want to know what your view is about economics. People who do bioethics in a way that’s cut off from the philosophy department—and there are a lot of such people—it’s often a kind of cheapo/quickie philosophy where you just say, this is the Kantian position and this is the virtue ethics position, and it gets really boring very quickly. Whereas the best work when we have our Law and Philosophy workshop, it’s interesting that virtually all of them are actually from philosophy departments.

MALANI: If you talk to law and economics scholars today, particularly those with PhDs, what they try to do is every so often write an article that’s really directed toward the general economics journal. To do that you really have to employ cutting-edge economics research technology, whether it’s empirical or theoretical, and that helps keep scholars fresh and up-to-date. I do think that it’s still a challenge getting economists to think that law and economics contributes something general to economics, but that partly has to do with the fact that economics is not an applied field in the way that it once was.

WEISBACH: My fields in tax law and climate change, there’s nowhere to publish interdisciplinary work; it just doesn’t exist. You can’t publish in a law review because no one you care about outside of law schools will read it, and it’s not going to be technical enough to get published in say a scientific journal or a journal of public economics. Placing papers is very, very difficult. You can put it in the Journal of Legal Studies, but no one that will read JLS will be the relevant audience for that kind of thing.

MILES: David, it sounds like a market opportunity.

WEISBACH: I’m not creating a journal, no …

NUSSBAUM: In philosophy that’s not such a problem. The journals like Philosophy in Public Affairs, Ethics, Journal of Political Philosophy, and Journal of Moral Philosophy—those all would gladly publish a really good paper in law so I think we have a lot of choices.

WEISBACH: But if you publish in a law review will any philosopher read it?

NUSSBAUM: Well, if you send it to them. [LAUGHTER] After all, it’s pretty easy to do that!
For the Love of Law and Literature: Lively Conference Exemplifies Law School’s Interdisciplinary Strengths

By Meredith Heagney
Professor Martha Nussbaum stands tall and proud, wearing a look of great triumph and utter satisfaction. In her left hand is a foot-long dagger; her face and arms are painted with blood. She is Clytemnestra, perhaps the original femme fatale, in Aeschylus’ *Oresteia.*

Moments earlier, her husband, Agamemnon, played by Judge Richard Posner, had returned home from war victorious, wearing a red satin sash adorned with medals and accompanied by a Trojan princess. In a rage, offstage, Clytemnestra kills Agamemnon and his new lover, Cassandra. “Ah! I am struck a deadly blow!” cries Posner, who serves on the Seventh Circuit Court of Appeals. When he is next revealed, he lies on the ground with Cassandra, played by Lecturer in Law Jajah Wu, ’10, both bloodied and still. Nussbaum’s Clytemnestra is vindicated:

*I struck him twice. In two great cries of agony*
He buckled at the knees and fell. When he was down
*I struck him the third blow, in thanks and reverence*
To Zeus, lord of the dead.

This performance, of extracts of the *Oresteia,* was a memorable moment in what is becoming a cherished Law School tradition: the law and literature conference, of which there have been four since 2009. The latest edition, *Crime in Law and Literature,* was held February 7 and 8 and headlined by *New York Times* bestselling author Scott Turow, who is also a practicing lawyer.

No event exemplifies the spirit of the Law School’s commitment to interdisciplinary efforts like the law and literature conference. It was organized by Nussbaum and Professors Alison LaCroix and Richard McAdams and draws academics from several fields. While the dramatic scenes are the most talked-about feature of the two-day event, most of it consists of scholars presenting their work in panel discussions.

Scholars of law and economics such as Douglas Baird, Saul Levmore, Thomas Miles, and, of course, Posner regularly participate. Professor Jonathan Masur, an expert in patent law, presented, as did Professor Bernard Harcourt, who is also a political scientist. Daniel Abebe, whose specialty is international law, is a recurring actor. Universities around the country sent their premier scholars in law, English, philosophy, and religious studies.

“It’s so appealing to people that they actually approach us and say, ‘can I give a paper?’ And of course I encourage it because we get much more unusual and interesting insights from people who are not the usual literary professionals,” Nussbaum said.

Levmore, who wrote a paper exploring the concept of threats and their utility with the help of the 1963 John Fowles kidnapping novel *The Collector,* said the conference is “mind broadening.”

“Part of Martha’s role in the Law School is to draw people into more interdisciplinary work. She’s had that effect on me and on others,” Levmore said. “Left to my own devices, I’m sure I wouldn’t have done it. But I felt like I really got into the spirit of it this year.”

Return participants testified to the power of literature to give insights about the law. Sometimes, they said, literature can change ideas that can ultimately change laws. But more often, it gives the reader empathy and understanding of the intimate challenges of others. And that’s an important skill for any lawyer, said Judge Diane Wood, Chief Judge of Seventh Circuit Court of Appeals and Senior Lecturer in Law. She has participated in several law and literature conferences and wrote the introduction for *Subversion and Sympathy: Gender, Law, and the British Novel,* the collection of papers from the 2010 event. Wood also contributed a paper on Shakespeare’s lessons to the modern judge in *Shakespeare and the Law: A Conversation among Disciplines and Professions,* which resulted from the 2009 conference.

“Literature is uniquely able to shed light on the human problems that occupy society, and thus occupy courts.”

–Judge Diane Wood
started writing and teaching about it. The birth of the law and literature movement is often credited to White’s 1973 book, *The Legal Imagination*. The book accompanied a course White taught, first at the University of Colorado and then at the Law School, that used literature to illuminate the nature of legal language, thinking, and expression. White also taught a course called Studies in Argument, which used extensive literary materials to study the way meaning is created in law. It was the basis for his 1984 book, *When Words Lose Their Meaning*. White, who was visiting at the Law School when *The Legal Imagination* was published, was a faculty member from 1975 to 1982, when he left for the University of Michigan. He is now Professor of Law Emeritus at Michigan.

Posner started writing about law and literature in the 1980s, after reading a *Harvard Law Review* article by a law professor who criticized him; she thought Posner’s work was missing insights that could be gained by reading Franz Kafka, a lawyer who often wrote about law.

“I was intrigued by this,” Posner said. “I was an English major in college; I’d read some Kafka. So I started rereading it, and I thought it was interesting, the idea of looking at literature about the law as a way of thinking about jurisprudential issues.”

Posner published *Law and Literature: A Misunderstood Relation*, a version of which is now in its third edition. He taught a class on law and literature at the Law School starting in 1987, and then, with Nussbaum, a Greenberg Seminar on the subject (see page 26). It was one of those Greenberg Seminars, cotaught with English Department Professor Richard Strier, now a Professor Emeritus, which led to the first law and literature conference.

White and Posner were not alone in their affection for and use of literature; beloved law professor and criminologist Norval Morris, who died in 2004, was a fiction writer and the author of 1992’s *The Brothel Boy and Other Parables of the Law*, part of a class he taught at the Law School on parables of the law.
Supreme Court Justice Stephen Breyer and Nussbaum at the 2009 conference on Shakespeare.

Professors Todd Henderson and Rosalind Dixon in The Beaux’ Stratagem, in 2010.

Professors Douglas Baird, William Birdthistle of Chicago-Kent College of Law, Daniel Abebe, and Alison LaCroix in The Beaux’ Stratagem. (Birdthistle is a regular coauthor of several faculty members and LaCroix’s husband.)
The 2009 law and literature conference, on Shakespeare, was headlined by Supreme Court Justice Stephen Breyer, who indirectly inspired Nussbaum to start the theatrical portion of the conference. “Breyer said he wanted to talk about three plays: Hamlet, Measure for Measure, and As You Like It, and I was thinking, how can we make sure the audience has familiar recall of these plays? And I thought, one fun thing to do would be to perform a scene from each of them.”

That early show was an indicator of how successful the dramatic scenes would be. “We had to repeat the theater part because the courtroom was too full to hold all the students,” Nussbaum said. “We had to do it again the next day.”

It was also the first time—but not the last—Posner would play a dead man onstage. He was Polonius in Hamlet. “I was killed and dragged off the stage, and that was fun,” Posner said. “I’m kind of a character actor; I’m not the leading man. I’m a villain or some old guy who’s going to be knocked off. My death scenes are well regarded.”

The Shakespeare volume, Shakespeare and the Law, was edited by Nussbaum, Strier, and English Professor Bradin Cormack, now at Princeton University.

In 2010, Nussbaum and LaCroix hosted a conference in partnership with the University’s Center for the Study of Gender and Sexuality on the eighteenth- and nineteenth-century British novel. That year, faculty enthusiasm greatly increased, Nussbaum said. The conference also featured a rather memorable stage moment during the performance of The Beaux’ Strategem by George Farquhar, in which Professor Todd Henderson played a drunken sot stumbling about in red long underwear.

It was also the first time the conference included musical performances. Wu, who played Posner’s lover in the Oresteia, and Nussbaum have the same singing coach; since 2010, they have contributed vocal performances to the conference. The resulting volume from the British novel papers, Subversion and Sympathy, was edited by Nussbaum and LaCroix.

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Sarah Conly, Lecturer in Law and Law and Philosophy Fellow, as one of the Furies in The Oresteia. Behind her, philosophy student Emily Dupree as Athena and law students as the jurors.
Nussbaum then decided to hold the events, which are quite labor-intensive to plan, every two years instead of annually. In 2012, the topic was the depiction of masculinity in American literature. The guest of honor was prolific author Joyce Carol Oates. And this time the musical performances went beyond Nussbaum and Wu’s singing: Gary DeTurck, ’14, played piano; this year, he played both piano and cello.

The book from that conference, which will be published by Oxford University Press, was edited by Nussbaum and Levmore. It will be divided into two sections, the first examining masculine archetypes, and the second so-called historical “outsiders,” such as Jews, gays, and empathetic men. McAdams’s paper is on the various qualities, both traditionally masculine and not, of Atticus Finch in To Kill a Mockingbird.

That volume will be a departure from previous efforts in that it will include several papers from federal judges who were not present at the conference but who contributed work on masculinity.

This year, the conference took a criminal turn, in part because Nussbaum was inspired by McAdams’s work at the 2009 Shakespeare conference, on Othello. Turow, in his keynote, pointed out that crime is one of the constants of literature.

“It’s fairly clear to all of us that transgression is of enormous interest. We are all battling the impulse to do wrong,” Turow said. “People can’t help being fascinated by wrongdoing because they are all would-be wrongdoers themselves.”

Turow got into the fun of performing a bit, too; he played the watchman at the beginning of the Oresteia, spotting the flame that signaled the return of the victorious Greek army from Troy. His inclusion was an added thrill for the students who acted in the play as women of Athens and jurors. Grace Goodblatt, ’16, who played a woman of Athens, had no lines but several tasks, such as laying out a red carpet in front of Posner, along with Siggi Hindrichs, ’16, and Amy Upshaw, ’16. The Oresteia was chosen because it depicts what the Greeks believe to be the first jury trial for homicide.
“These are such familiar people in their fields, and to get to work with them in this setting was thrilling,” Goodblatt said. (Students didn’t just participate as actors, either; four students, two from the philosophy department and two from the Law School, presented student papers at the conference’s opening session. Nussbaum’s research assistants David Dormon, ’14, and Bill Watson, ’14, served as stage manager and general assistant, respectively. Recent graduate and award-winning actor and playwright Paxton J. Williams, ’13, directed the production.)

LaCroix has acted at two previous conferences. Like most of the faculty actors, she doesn’t consider herself a natural, but she does see the value of the exercise, she said. “We have to be one of the only, if not the only, law schools that does this. We all know it’s a bit unusual, but there is value in performing the works. It’s a chance to bring the text to life, and to give people another way to access law.”

English Professor Marina Leslie of Northeastern University in Boston said she was surprised and delighted by the performances. It is so unusual to combine an academic conference with performances of this sort, especially where students and faculty share work academically and then collaborate theatrically, she said. “It was both serious and fun. I applaud the sense of play and the kind of community it builds,” she said. Leslie presented a paper earlier that day about the literary legacy of Anne Green, the English woman who famously survived a hanging in 1650. She was part of a panel on Criminal Histories that also covered an analysis of murder in Othello (McAdams) and a discussion of perjury in ancient Jewish legal texts (Barry Wimpfheimer of Northwestern University’s Department of Religious Studies).

“The panel I was on had scholars from three different disciplines, and it was surprisingly coherent. The talks were quite resonant with one another,” Leslie said. “Interdisciplinarity, as a whole, is more often an aspiration than a practice. At this conference, I think it’s really achieved.”
Coase’s Journey
Douglas G. Baird

In the fall of 1931, a twenty-year-old undergraduate left England to spend a year in the United States on a traveling fellowship. Lenin had boasted that he would turn the Soviet Union into one giant factory. This raised the question of whether there was any natural limit on how large firms might become. It raised other questions as well. Why were large firms needed at all? What prevented production from taking place through transactions among arbitrarily small firms in the marketplace? Indeed, what was the difference between activity inside a firm and outside it?

This undergraduate believed that by spending a year touring the United States to interview its entrepreneurs and economists, he could learn the answer to such questions. This project was quite beyond the reach of an ordinary undergraduate. Ronald Coase, however, was no ordinary undergraduate. The paper Coase wrote on his return was “The Nature of the Firm.” It brought him the Nobel Prize sixty years later and contains the ideas essential to industrial organization and modern law and economics.

Coase’s paper solved part of the mystery about why economic activity was located within firms rather than in the market. A “firm” consists of the system of relationships that comes into existence when an entrepreneur oversees the direction of resources. Instead of the price mechanism directing the flow of resources, an entrepreneur takes command of them. The relationships, not the assets, are the firm.

Coase’s work, among many other things, establishes a fundamental challenge to anyone working in my field of corporate reorganizations, the law dedicated to preserving financially distressed firms. Coase’s insight into the nature of the firm puts a natural limit on how much value a law of corporate reorganizations can bring. To make the case that a business has substantial value as a going concern and is worth saving, one must establish both that the business’s relationships are costly to replicate and that the business is itself sound.

If the first virtue of the firm lies not in its assets but rather in the way production is organized, the synergy any particular firm possesses may be more modest than commonly believed. Indeed, the ability to engage in the same activity in the marketplace puts an upper bound on the value of any given firm.
Another lesson of “The Nature of the Firm” applies to corporate reorganizations but extends well beyond it. A large business enterprise today often consists of a corporate group that consists of many discrete legal entities. Even though they function as a single economic entity, the law operates on the discrete legal persons, not on the group as a whole. A law that focuses on the behavior of a discrete economic actor may miss the mark when the firm in the Coasean sense is a collection of related entities.

In a world in which the boundaries of the firm become less clear and the identity of those who control the firm becomes more fluid, regulations that focus on the conduct of specific firms is at best incomplete and often misguided. No longer are the entities providing the goods or services long-lived, atomistic firms with a readily identifiable governance structure. To the extent that it is still possible in a global economy, effective legal rules will increasingly focus on regulating economic activity, rather than on regulating distinct legal entities.

This idea, one that has also influenced my own recent work, is another that can be learned from Coase. Those who work in virtually any area of the law find lessons for their domain. By focusing fundamental questions with clarity and precision each time he wrote, Coase ensured that his work will continue to offer fresh insights for this generation of scholars and succeeding ones.

Douglas G. Baird is the Harry A. Bigelow Distinguished Service Professor of Law.

Coase’s Theory of the Firm and the Family

Mary Anne Case

I was intrigued to see in one of Ronald Coase’s last public lectures to the University of Chicago community, the April 20, 2012, lecture on “Markets, Firms and Property Rights,” the suggestion that “firms are usually based initially on the family.” I have long found the analytic framework Coase set forth concerning the choice between firm and market extraordinarily useful for examining developments in the law concerning the family. Just as one is now generally free, as Coase observes, to structure one’s business affairs in corporate or partnership form, as a franchise operation, or as a sole proprietorship through a series of individual, isolated market transactions, so both law and society now offer a variety of ways to structure one’s personal life. The provision of sex and of care (for example, elder and child care) and the production of children can each be outsourced or internalized within a legally recognized family structure. Lawyers, as well as economists and sociologists, can both learn from and contribute to the ways choices among possible structures are made.

As the Sigourney Weaver character Chafee Bicknell, proprietor of an upscale surrogacy business, explains to the potential client played by Tina Fey in Baby Mama:

I started this business because I saw a growth market. We don’t do our own taxes anymore. We don’t program our computers. We outsource. And what is surrogacy if not outsourcing? Let me ask you a question. Do you plan on hiring a nanny? How is this any different? A nanny is someone you trust to take care of your baby after it’s born. A surrogate mother is someone you trust to take care of your baby before it’s born. Either way it’s your baby.
Although films such as *Baby Mama* suggest that outsourcing aspects of the production of children is something new, I think it is important to remember that the mom-and-pop production of children is no more universal a model than is the mom-and-pop business enterprise. Defenders of the so-called traditional family model tend to overlook not only the polygamy of the Old Testament patriarchs but also biblical surrogacy arrangements such as that of Jacob with Rachael and her maid Bilhah, along with Leah and her maid Zilpah, which produced the progenitors of four of the twelve tribes of Israel. Of course, the surrogacy arrangements in Genesis, like the use of slave wet nurses and mammies in the pre—Civil War American South, were not technically outsourcing, but keeping the production of children within the family firm: slavery, like marriage, was domestic relations.

Now, with adoption, the new reproductive technologies, and market provision of childcare, what portions of parenthood can be outsourced? Is there a limit on how many and a limit on which? Similar questions arise with respect to relations between adults, with civil marriage analogous to the firm and alternatives including registered domestic partnership, cohabitation with or without explicit contracting, and the single life. As the legal landscape of family law evolves rapidly, I find it increasingly fruitful to put my earlier work on the new reproductive technologies in an explicitly Coasean context, as well as analogies between marriage and the corporation. I’m deeply regretful that Ronald Coase himself is no longer around to tell me, as he told himself and so many of our colleagues, where the analysis of the ideas they implement.

Mary Anne Case is the Arnold I. Shure Professor of Law.

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1. Available at http://www.youtube.com/watch?v=ZAq06n79Ols.
2. In Chaffee Bicknell’s very name is a lesson in theory of the firm and the family: “I thought Chaffee and Bicknell were two different people,” says the potential client. What gives the outward impression of a partnership turns out to be a sole proprietorship, but one whose proprietor’s own name may stem from the American WASP tradition of announcing the merger of two families by giving children their mother’s maiden name as a first name.
3. See Genesis 30:1–13 (describing how Rachel while she was barren and Leah when she had stopped child bearing each encouraged their husband Jacob to have sex with one of her maids, with the sons that resulted being viewed as the sons of Jacob and Rachel or Leah, respectively).

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**Coase and Finding the Interesting Problem**

Frank H. Easterbrook

Ronald Coase made his great contributions by tackling problems that other people did not see as problems in the first place, because they thought the analysis obvious. Why are corporations organized as they are? Because entrepreneurs command others to do their bidding. Why does the government build lighthouses? Because they are public goods, which the market cannot provide. Why do monopolists lease their goods? To ensure that used durable products cannot compete with new ones. Why does government allocate the airwaves? To prevent interference. How should government regulate externalities? By taxation.

Coase showed that all of these answers are wrong. Corporations take the form they do because fiat competes with organization through markets. Lighthouses are not public goods; private associations built and operated many of them. Durable goods cannot be monopolized, because rational actors anticipate the future and therefore will not pay more for the initial offerings than for later ones. Property rights in broadcast frequencies will prevent interference as well as government can and will improve allocative efficiency in the process. “Externalities” assume a causal chain they may not exist: when transaction costs are low, interference among activities can be solved by bargaining better than by taxation. The articles employed that rarest of skills, persuasive exposition. No equations, no regression coefficients, and using only the sort of data that an undergraduate could gather from with persistent effort.

When Coase wrote these and other articles, “everyone” knew them to be wrong. It is a mark of his persuasive power that today everyone thinks them right—so obviously right that some of his essential points have come to be called tautologies. Turning the profession around marks a great achievement. Today his work deeply influences legal doctrine (including the work of the federal courts) even though legislators and judges do not know the provenance of the ideas they implement.

I first met him in 1972, in my second year of law school. There were competing seminars in economic analysis of law. Coase taught one, using his articles and questioning what other people thought “obvious.” His seminar also featured
work that other scholars had begun to do following his example, such as William Baxter’s analysis of airport noise.

The rival was Richard Posner’s first seminar in economic analysis, based on a photocopy of an early draft of the book eventually published as Economic Analysis of Law. Posner was interested in the economics of legal doctrine, Coase in the economics of market transactions that had acquired a legal overlay (such as the allocation of broadcast frequencies). I took both seminars and learned a great deal (not always the same thing) from each.

Coase’s work on broadcast frequencies has conquered the globe. Yet his first great article, on corporate structure, has had little apparent influence. State legislatures ignore it, and Delaware’s judges do not cite it. When I was in law school, the academy was dominated by a view that competition among jurisdictions is pernicious. That was still a common view when I took up teaching in 1979. Daniel Fischel and I set out to see what could be said about corporate law from Coase’s perspective. Our articles (and the book The Economic Structure of Corporate Law) concluded that Coase had largely prevailed through market forces. We dedicated that book to him. The whole legal profession, and society at large, is in his debt even if they do not know of him. He will be sorely missed.

Frank H. Easterbrook is a Judge on the United States Court of Appeals for the Seventh Circuit and a Senior Lecturer in Law.

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Coase Is (Still) Everywhere

Saul Levmore

I will miss both Ronald Coases. There was the personable, gentlemanly, but critical Coase, whose company I enjoyed over many lunches. He was contrarian, relentless in advancing a particular vision of law and economics, an insightful critic of experimental economics, most empirical work, and mathematical models. And then there was the iconic Coase, whose two most important works had a profound effect on most of what I (and many other people) do. In one case, Coase asked the game-changing question, What and why do firms do some things within themselves, but do other things through outsourcing or explicit contracts? And then in “The Problem of Social Cost,” Coase asked, When do legal rules matter? He then went ahead and answered the question by breathing the idea of transactions costs across the pages of law reviews for years to come. As with every innovation, we might ask when it would have come along if the first pathbreaker had never materialized? Given how long it took the Coase theorem to take root, I am confident that it would have been a while before someone else impressed upon us that in the absence of transaction costs, law’s allocation of rights, or at least transferable rights, would not affect behavior. Much has been made of the difficulty economists had in accepting the idea when it was first presented. Law professors were no better. Contrarian ideas have that effect. In turn, once the idea was understood, everyone in both disciplines seemed to think he or she knew it all along.

A lasting if personal effect of the iconic Coase is that I never stop puzzling over situations where people do not bargain around legal rules. You say the British rule of loser pays winner’s legal fees is superior; why don’t parties bargain for it before or during litigation? You say discovery is too expensive; why don’t parties pay one another not to ask some pretrial questions? You say you are grateful for no-smoking hotels; why did you not ever offer to pay more for a room with no smokers nearby? And then there are larger questions. The iconic Coase can be understood, only sometimes incorrectly, as justifying the status quo. Thus, perhaps public-sector corruption is a Coasean reaction to inefficient legal rules. Should it be welcomed because it represents nothing more than parties’ bargaining around rules? Are all interest groups just engaging in the sort of bargains that looked inviting when Coase started making us see conflicts as nicely resolved when the higher-valuing “user” prevailed in law? Or if not, by purchasing rights outside of law? And perhaps even Coase thought on too small a scale. For example, in his last project he marveled at the rise of capitalism in China and offered some ideas about why and how China evolved. But we could out-Coase him and say that perhaps capitalism emerged because parties found it worthwhile to “buy” or otherwise bargain for the right to own property and to engage with one another through markets. It has taken me many years to work my way up to these larger questions, but the more manageable ones we deal with in law occupy most of my day and are more fun. I will always be indebted to Coase for the questions I use to understand phenomena all around us.

Saul Levmore is the William B. Graham Distinguished Service Professor of Law.
My Friend and Mentor Ronald Coase

Richard L. Sandor

Professor Ronald Coase was a true giant. This great man and scholar forever changed those of us who had the good fortune to be his students or to even catch a glimpse of his warm smile at a lecture. Professor Coase was my mentor and teacher for forty years. His unwavering determination has always been a strong example and encouragement to me.

As a child, he had physical difficulties and was placed in an institution that specialized in handicapped children. It was his first exposure to school. At the time, it was the custom to assume physical handicaps were accompanied by mental disabilities. He was taught to weave baskets and not to read. However, he was determined to learn. He taught himself how to read by reading the labels of the bottles of medicine he had to take.

Professor Coase worked as a young analyst in Churchill’s war cabinet during World War II. His first task was to determine the number to airplanes, tanks, and other armaments the Germans were manufacturing. This was a military secret. Coase estimated the production by determining the amount of inputs such as coal, iron, and copper that were imported into Germany. The method proved to be valuable. Churchill then asked Coase to make the same determination for Great Britain. The Prime Minister was concerned that British industry was overreporting their production. Coase proved that this concern was correct, and the prime minister used Coase’s data to better steer the war. It was an excellent example of using caution with data and recognizing that individuals do not want to disclose their own waste and inefficiencies.

Later in the war he wanted to publish a monthly balance
sheet on where armaments were stored by the British army. This would allow weapons and ammunition to be redeployed to the theater of war where they were most needed. After three months, the generals simply stopped reporting their data to protect their power, and the project failed. He told me this story when I told him about my failure to convince members of the US government about the need to address climate change. Professor Coase told me that he had failed too. He said, “The fate of the western world was in the hands of generals who would not share accurate data with the prime minister.” Mine was a small failure compared to his. It was a teaching moment and made me understand the need to learn from failure and the importance of determination.

I met Professor Coase when I was a young professor at the University of California, Berkeley. I contacted Professor Coase, who was at that time editor of the *Journal of Law and Economics*, to determine his interest in publishing my article on the plywood contract at the Chicago Board of Trade. He was not only interested in publishing it but took a personal interest in the editing of the article. His comments—and many criticisms—vastly improved my paper. Years later, we joked that he was the only editor that would have accepted the paper for publication. It was not only a paper that dealt with a real business case, but it also showed the reasons why the plywood contract failed. He would often tell me that we have much to learn from failure—a lesson that would serve me well in life.

All of these stories show his response in the face of adversity. As a scholar, many of his ideas were not at first understood by his own peers. While others might have been discouraged and changed course, Professor Coase proceeded undaunted.

Few scholars have changed the face of economics like Ronald Coase, and in the process, he helped create a new field: Law and Economics. He brought a very rare commodity to the economics profession—clarity. His prose was elegant but objective. His teachings were clear and his precise questioning meant to guide his students to the heart of the matter.

Ronald Coase will easily be on a list of the top five most influential economists of the twentieth century, alongside such names as John Maynard Keynes and Milton Friedman.
We can also put him in the same category as Adam Smith and David Ricardo. As they did, Professor Coase built a framework for us to think about fundamental issues as diverse as the organization of firms, pollution, the Internet, and the economic growth of China. This framework will continue to be as influential a hundred years from now as when it was recognized by the Nobel committee in 1991. I am proud and humbled to have been his friend and student. We will miss you, Professor Coase.

Richard L. Sandor is Chairman and Chief Executive Officer of Environmental Financial Products LLC and a Lecturer in Law.

Ronald Coase and the Freedom of Speech

Geoffrey R. Stone

In his groundbreaking 1977 article “Advertising and Free Speech,” Ronald Coase challenged conventional wisdom in an important area of First Amendment law. What especially interested Coase was the sharp divergence between the law’s profound commitment to the free market in the realm of speech and its lack of confidence in the free market in the economic realm. Invoking Justice Oliver Wendell Holmes’s assertion that “the best test of truth is the power of the thought to get itself accepted in the competition of the market,” Coase noted that First Amendment doctrine in regard to speech is largely premised on “an extreme faith in the efficiency of competitive markets and a profound distrust of government regulation.” But in the realm of “goods and services,” the very same “intellectual community” that celebrates the marketplace of ideas demands ever-more extensive government regulation. Coase suggested that this disparity “calls for an explanation” but lamented that such an explanation “is not easy to find.”

Coase thus rejected the then-prevailing proposition that the First Amendment excluded commercial advertising from the ambit of its protection. He predicted that over time the Court would come to “see the value of advertising in providing information” and as it comes to understand “the failures of governmental regulatory agencies” is likely “to contract the regulation of advertising.” Indeed, Coase suggested, there is no principled “resting place before reaching the point at which all advertising is covered by the First Amendment.” In the end, he concluded, the Court should allow the government to regulate only false and deceptive advertising.

Even before “Advertising and Free Speech” hit the newsstands, Coase’s predictions proved true. The Supreme Court overruled its precedents to the contrary and made clear that the notion that “commercial speech is unprotected” by the First Amendment was the result of a “simplistic approach.” The Court rejected the argument that “speech which does ‘no more than propose a commercial transaction’ is so removed from any ‘exposition of ideas,’ and from ‘truth, science, morality, and arts in general, in its diffusion of liberal sentiments on the administration of Government,’ that it lacks all protection.”

The Court explained that commercial advertising has significant informational value. The individual “consumer’s interest in the free flow of commercial information,” for example, “may be as keen, if not keener by far, than his interest in the days’ most urgent political debate.” Moreover, “so long as we preserve a predominantly free enterprise economy, the allocation of our resources in large measure will be made through numerous private economic decisions. It is a matter of public interest that those decisions, in the aggregate, be intelligent and well-informed. To this end, the free flow of commercial information is indispensable.” And “even if the First Amendment were thought to be primarily an instrument to enlighten public decision making in a democracy, we could not say that the free flow of information does not serve that goal.” Ronald Coase was not a constitutional scholar, but in this instance he was one step ahead of the Supreme Court.

Geoffrey R. Stone is the Edward H. Levi Distinguished Service Professor.
Learning in the Living Room: The Greenberg Seminars

By Robin I. Mordfin
While many people dream of sitting in a warm living room sipping wine and discussing themes in Southern literature with Martha Nussbaum and Richard Posner, some students at the University of Chicago Law School actually get to do this. Each year, professors open their homes to students to discuss topics that simply do not come up in class, hosting gatherings that give students and faculty the opportunity to know each other better while diving into new ideas. These meetings are known as the Greenberg Seminars.

“I was talking to Dan Greenberg, a Law School alum who attended Reed College, about the benefits of a liberal arts education in a small environment and how it feeds the intellect,” said Saul Levmore, William B. Graham Distinguished Service Professor of Law. “I was looking for ways to get him more involved, and he said something along the lines of ‘Give me something interesting, something that is not just like what is happening at every other law school, and I will fund it.’”

“I arrived at the Law School from an intense liberal arts college experience and found myself doing nothing but reading law all the time. I felt like part of the experience was missing, the discussion of how law affected real life, of how it affected society,” explained Dan Greenberg, ’65.

“This was something that accompanied me for a long time, but I wasn’t sure how it could be done, how liberal arts could be injected into the curriculum in a relevant way.”

Taking on Greenberg’s challenge, Levmore thought of reports he had heard of the discussions that would take place at Soia Mentschikoff and Karl Llewellyn’s house years before when a few students and teachers would get together to enjoy ideas. He realized their model could be replicated in a way that could take advantage of the Law School’s unique community.

The Greenberg Seminars are one-credit classes, usually filled by third-year students, and normally taught by two faculty members—sometimes one member of the Law School faculty and one from another part of the University.

“When I meet with graduating 3Ls for their exit interviews, time and again they cite their Greenberg Seminars as one of their favorite and most meaningful experiences during their three years at the Law School,” said Dean of Students Amy Gardner, ’02. “I only wish they’d been in existence when I was a student!”

No tests are administered, no papers are written, but attendance is required. The seminars are held in five sessions.
throughout the school year at professors’ homes, and each gathering includes food.

“Food is a big attraction for students,” remarked Julie Roin, Seymour Logan Professor of Law. “And it makes for an informal, friendly atmosphere that is conducive to discussion.” Some seminars include snacks, others include themed dinners, still others are a mixture of both. But the point is to create conditions that encourage participation of a sort that is not possible in a classroom.

“Greenbergs are interesting for a numbers of reasons, but one of the most interesting things is to see how smart the students are outside of the legal stuff,” said M. Todd Henderson, Professor of Law and Aaron Director Teaching Scholar.

“But Greenbergs are also a tremendous opportunity to bring professors together in different settings,” Henderson added. “Once I started considering doing a seminar I realized I could get Dick Posner into my living room if I could come up with something that would interest him. So I came up with Utopias and Dystopias in 2006. We read Onyx and Crake and watched Brazil and had a wonderful time. And, of course, Posner always has an interesting point of view. He can throw out a crazy or insightful thought that keeps the conversation going.”

Such entertainment is part of what make the seminars a special part of the Law School experience. Brian Ahn, ’14, is currently enrolled in Henderson’s seminar on Korea, which he is teaching with Thomas Ginsburg, Leo Spitz Professor of International Law.

“The seminar is definitely different from other Law School classes, notably because it is much more informal, but I think the discussions and analysis of different issues of the subject are very similar to how we would attack a law class, it’s just that the topic is not always law related,” Ahn noted. “I’ve been very pleased with my seminar thus far, because being with Ginsburg and Henderson means that something interesting or funny is always happening.”

Greenberg, ’65, and his wife, Susan Steinhauser, began funding the seminars in the autumn of 2004. That year the Law School offered five, among them Homemade Law, which was taught by Levmore and Roin.

“That first year, we came up with the idea when talking to our children about the rules of behavior in different places, like school and other institutions and whether
those rules fit in with or are a departure from rules in other contexts. For that one we studied a lot about communes,” Roin explained. “Subsequent themes have developed organically from the prior year’s seminar. Almost inevitably, a discussion will raise a tangentially related issue that intrigues us, and then we go look for articles and books on that topic to see if there is sufficient material to sustain five weeks of conversation.”

Levmore and Roin went on to teach Seductive Theories, which they saw as a natural outgrowth of Homemade Law, and then Theories for the Future. More recently, they have explored cutting-edge concepts including Optimism vs. Pessimism and Inequality Past and Present, in which the participants tried to make sense of literature purporting to explain the actual sources of the recent rise in inequality, including working women, two-income families, and genetic sorting in a world where certain characteristics are prized above others.

“Right now we are teaching the Rise of Women. Interestingly, out of 12 participants, there are only two men,” Roin continued. “First we read the Rise of Women and the Fall of Men, which states that women’s social skills work better in a cooperative environment and that today’s technology has made those skills essential. The next book we read said that women have fewer friends than men, but have deeper relationships with them. However, men rise to the top because with many acquaintances they tend to network better. It’s led to very interesting conversations.”

Among the other initial Greenberg Seminars was Oscar Wilde and the Law, taught by Martha Nussbaum, Ernst Freund Distinguished Service Professor of Law and Ethics, and Judge Posner. Since then the duo has gone on to teach seven additional seminars together, all focused on literature and its relationship to the law, including Gender, Power, and the Novel and Kafka and the Law. Last fall they began teaching Southern Literature and the Law.

“We choose topics in a pretty random manner,” Posner said. “These topics are just things we both really enjoy.”

That fall, Geoffrey Stone, Edward Levi Distinguished Service Professor, and Eric Posner, Kirkland & Ellis Distinguished Service Professor of Law, taught a more conventional class, Constitutional Law after 9/11.

“That was just a natural at that point—all the issues of 9/11 were still constantly being talked about and were very

The law and literature Greenberg Seminars taught by Judge Richard Posner and Professor Martha Nussbaum are extraordinarily popular with students.
fresh. We followed it with Emergencies and Constitutionalism, and we really took long looks at the consequences of terrorism,” explained Stone. “We read a lot of books, and I found it to be really interesting because I had the opportunity to hear from a diverse group of students who were relaxed and able to share their ideas.

“To be honest, I taught my first Greenbergs because I am a good citizen. I have been dean, I have been provost, and I believe in institutional responsibility,” Stone added. “But I still do it because there is a lot of self-gratification involved and they can be enormously fun.”

In 2011, Stone brought in a fellow teacher from across the Midway, Jane Dailey, Associate Professor of American History, to help him teach Religion and the State. In 2012 they taught The Life and Times of the Warren Court.

“Constitutional Law used to be taught by historic era and you got to look at the character of each court. Now it is taught by subject and you look at cases over time. You sort of get a comic book vision of the way courts behaved,” Stone noted. “So we wanted to show them something different. We put together cases on a lot of subjects—religion, free speech, equal protection, criminal law—and looked at the Warren Court’s opinion along with the contextual history so that the students could completely understand where the court stood.”

David Pi, ’13, who attended the Warren Court seminar, found that Stone and Dailey’s intentions were completely met. “I thought studying law by the court and not by the topic was very useful. By learning about the court and the personalities of its members, we could discuss the common considerations the court made between vastly different areas of the law. A frequent exercise in class was to predict how the court would have handled a modern-day problem in the law based on its ‘personality’ that shone through its opinions in the 1950s and 1960s.” Pi explained. “I think it is rare to have such open, free-flowing discussions outside the context of a Greenberg.”

Stone is hardly the only Law School faculty member to have cotaught a Greenberg with faculty from across the Midway. In one of the first Greenbergs offered, Bernard Harcourt taught Degenerate Law with Andrew Abbott from the sociology department. Henderson, who has taught with a wide variety of Law School faculty, has taught a Greenberg on Punishment with Jens Ludwig from the
looked at the racial makeup of neighborhoods around the city and the way that racial segregation continues to be a characteristic of the city.

“Neither Aziz nor I are experts in housing patterns, that is not what we do. But we are very interested in the topic, and this is what Greenbergs are all about: They give us the opportunity to read books on something we don’t usually teach and discuss it with a lot of really bright minds.”

And while exploring the new is motivation for many Greenberg leaders, exploring something already enjoyed with new people is also something that interests Law School faculty. Professor Jonathan Masur, Deputy Dean of the Law School, decided to teach a class on The Wire, the critically acclaimed crime HBO drama, with Richard McAdams, Bernard D. Meltzer Professor of Law, simply because he likes the show.

“We called the seminar Crime and Politics in Charm City: A Portrait of the Urban Drug War, so that the fact that we were studying The Wire would be obscured—we didn’t want to have a bunch of students who just wanted to watch TV come to our houses. The first time we taught this in 2010, all but one of the students had watched the entire series, so they figured out what the seminar was about from the title,” Masur noted.

“You have to understand that Professor McAdams and I are huge fans of the show—we think it is as good as any literature written in the past 10 years that we have read,” he added. “It puts on display a great deal of fascinating details about crime, the structure of the institutions constructed to address that crime, and even the structure of urban societies, and it stimulates terrific discussions about all of those subjects. It raises interesting questions about issues that students are not usually exposed to in an academic setting.”

The duo has taught the seminar three times since 2010, but Masur has also explored other topics through the seminars, including Wine and the Law, which he taught with Thomas Ginsburg. Ginsburg makes his own wine, ages it, and bottles it on a little piece of land in Northern California. Masur helped him out with the process a few years back, and the two got into a long discussion of all the legal challenges that arise for those who want to sell their own wine. So they figured, why not do a Greenberg?

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“The main thing is to have an interesting discussion with students, who bring to bear their different perspectives. I have made sure to include foreign students, who always bring a distinctive way of thinking,” explained Professor Posner. “One of my favorite teaching experiences took place during the New Books on Foreign Relations seminar, when I invited University Chicago political scientist John Mearsheimer to talk about his controversial book, The Israel Lobby and US Foreign Policy. The students in that seminar were superb, many of them quite knowledgeable about the Middle East, while Mearsheimer is an experienced and excellent teacher as well as a distinguished scholar. The students debated Mearsheimer in exactly the right critical but respectful spirit, and he was superb as well.”

Daniel Abebe, Professor of Law and Walter Mander Teaching Scholar, who taught the Arab Spring seminar with Posner and Aziz Huq, also looks at Greenbergs as an opportunity to explore topics that would not normally be discussed in a classroom. In 2012 he and Huq, Assistant Professor and Herbert and Marjorie Fried Teaching Scholar, taught Race and Place in Chicago. The seminar looked at the racial makeup of neighborhoods around the city and the way that racial segregation continues to be a characteristic of the city.

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“We did have a couple of students who were seriously interested in wine, and one was a sommelier, but most just thought it sounded like fun, and it was. That is what makes Greenbergs great,” Masur said. “You really get to know a group of students while talking about things you enjoy.”
The Gavel and the Stethoscope: Law and Medicine, in Study and Practice

By Meredith Heagney

Over the course of ten months, 340 people filed into a University of Chicago lab so a research technician could puncture their forearms with a small dose of histamine. The skin’s inflammatory (allergic) reaction to the injection was measured, and then each subject was given a Claritin. Then they watched Shakespeare in Love, spliced with commercials for Claritin and Zyrtec. Their allergic reactions were measured again.

The goal of the clinical trial was to see if the ads affected the effectiveness of the drugs. For example: does watching a Zyrtec ad keep your Claritin from working? (It could—more on that later.)

It may not sound like the work of a law professor, but it is. Professor Anup Malani and two colleagues, a surgeon and an economist, designed the experiment, which led to a paper published in the Proceedings of the National Academy of Sciences.

What does it have to do with law? Well, the way drugs work has many implications for law and policy, Malani explained. This is what he does: study topics at the fertile intersection of law and medicine, from policy and markets to behavior and economics. And he’s not alone in the Chicago Law community when it comes to thinking about the many things that the law has to say about medicine. Several graduates of the Law School are also MDs who work in both worlds daily.

Kameron Matthews, ’06, graduated from the Johns Hopkins University School of Medicine in 2007. Today, she is Chief Medical Officer at Mile Square Health Center, a University of Illinois–run series of clinics that serve about 18,000 low-income patients a year. Matthews is responsible for overseeing 12 clinics, and she has found that it’s a good fit for a doctor who is also a lawyer. Part of her job is to ensure that the clinics are compliant with laws and regulations governing health care institutions.

“I wanted to create policy so I could impact more than one patient at a time,” Matthews said. To do that, she felt she needed both her JD and MD. “It’s two different languages, and often those with both degrees are able to bridge the divide.”

Nirav Shah, ’07, is an associate at Sidley Austin and doesn’t consider himself a doctor, because he never practiced medicine. He does have an MD (2008) from Pritzker, however, which he uses every day in his law practice, which focuses on health care law and policy, as well as fraud and abuse.

The MD is a big help, Shah said. “Nowadays, health care is such a technical, highly regulated field. The medical degree allows me to get in there with a client on day one and quickly get a handle on not just the legal issues but also the scientific and technical issues.”

Rebecca Weintraub Brendel, ’99, earned her MD at the University’s Pritzker School of Medicine in 2000. She is a psychiatrist at Massachusetts General Hospital, where she is also the Director of Law and Ethics for the Center for Law, Brain, and Behavior. She is an Assistant Professor of Psychiatry at Harvard Medical School and Clinical Director of a program funded by the Red Sox Foundation to address veterans’ psychological war wounds.

Much of Brendel’s work, in both her scholarship and her daily job, involves the thorny medical and legal questions around competency, or the ability of severely mentally ill patients to make decisions for themselves. She oversees all legal guardianships of patients treated by Massachusetts General; her goal is to achieve the least-restrictive guardianship agreements possible for the patient’s well-being. To this end, she works closely with the courts, lawyers, and judges, as well as fellow physicians. The law also affects her broader practice in numerous and ever-changing ways, she added.
“For medicine in general, we’re in an area of increasing regulation and change in practice delivery and also an economic climate where we have to make decisions about resources,” she said. “As physicians, we have to make decisions about how those laws affect process and our patients.”

That link—between policy and patient—is where Malani, Lee and Brena Freeman Professor of Law, is often focused. His most recent work has examined the Affordable Care Act (ACA) and insurance markets in the United States and abroad. For example, he’s written about the effect of the ACA on medical innovation, such as new drugs and devices. Last year, he participated in a summit of eight health economists put together by the American Enterprise Institute with the goal of crafting an “ideal” health care reform package, one that would be as progressive as the ACA but no more costly. Their plan, titled, “The Best of Both Worlds: Uniting Universal Coverage and Personal Choice in Health Care,” is published on the AEI website.

Malani also studies health economics and policy in developing countries, especially India. His topics are sometimes unique to the developing world and sometimes parallel to U.S. realities. For example: he wrote a paper on whether farmers in developing countries should be compensated if the government kills their chickens to fight avian flu—thankfully, not a domestic problem. But he’s also investigating India’s national public health insurance program, which could hold lessons for our own health care market.

He’s part of an interdisciplinary team doing a multiyear study of the program Rashtriya Swasthya Bima Yojana, or RSBY. Since its start in 2008, RSBY has covered 150 million people, but Indian officials are still trying to decide whether to expand it, discard it, or change it. To help figure that out, Malani is conducting a field experiment comparing the health and financial outcomes of those with RSBY to those without. The experiment will involve enrolling 60,000 people in RSBY and will be complete in two years.

Malani’s work often involves clinical trials, such as the allergy experiment described in the opening of this story. Malani and his fellow researchers found that Claritin was more effective among subjects who watched ads favorable to it and less effective for those who watched ads for Zyrtec, which said Claritin didn’t work as well. However, the effect was present only for subjects without preexisting allergies. It’s still relevant, Malani said, because people develop new allergies throughout life, and the experiment implied drugs work through both physiological and psychological channels. That knowledge, Malani said, could impact the regulation of drug advertisements via law or FDA rules.

Malani came to the field of law and medicine when he realized, in pursuit of his JD and a PhD in Economics from the University, that he could carve a niche in health economics and policy. He doesn’t have an MD, but said there are benefits to being a JD/MD. “When you’re a doctor, the knowledge you have about physiology and medical treatment gives you an added credibility when you’re talking about regulation of medical treatment,” he said.

JD/MDs are somewhat rare; just five people have earned both degrees from the University of Chicago since Pritzker started keeping track around 1997, said Dr. Jim Woodruff, Pritzker’s Associate Dean of Students. Pritzker and the Law School offer interested students a plan to complete both degrees, but it isn’t truly a joint program. There are separate application processes, and doing both doesn’t reduce the student’s time in either program.

Oftentimes, JD/MDs start medical school and then decide to take a break for law school. Brendel, the Massachusetts General Hospital psychiatrist, started medical school at New York University but left after two years to attend the Law School. It was the early 1990s, and the Clinton administration’s plan for health care reform was at the forefront of the news. “I was interested in medicine but also was very interested in a lot of the health care policy changes happening,” Brendel said. She thought law school would be a good way to explore that.

While a law student, she worked in the Mental Health Project clinic under Professor Mark Heyrman. It turned out to be a formative experience for the future psychiatrist. Brendel and Heyrman worked on several legislative initiatives; in one, they wrote a statute related to competence, an issue that now factors heavily into her work.

These days, Brendel is the educator. At Harvard, she has taught joint classes of law and medical students on the subject of ethics and professionalism. That’s an interesting
course, she said, because law and medicine both inspire many difficult ethical questions. In her field, for example: Do patients have the right to refuse medication? When must the state step in to protect people who cannot protect themselves?

Brendel has participated in a workgroup of experts organized by the Financial Industry Regulatory Authority, a nonprofit that regulates the securities industry, to talk about the risks of financial exploitation of the elderly. It is a particularly relevant issue considering America’s large aging population, Brendel said. It’s also an issue that touches on both legal and medical questions.

Matthews, the Chicago doctor, didn’t even consider law school until her third year of medical school at Johns Hopkins. She planned to work in health policy but originally thought a Master of Public Health would be a better route. In the summer of 2001, she was Senator Orrin Hatch’s health policy fellow, working with him on issues such as the patients’ bill of rights and stem-cell research.

After that experience, Matthews decided that law school was a better bet for policy. (“Everybody on the Hill has a JD,” she said.) So she took a break from medical school to start her law education. After earning both degrees, she completed a residency in family medicine at the University of Illinois at Chicago and worked two years as the staff physician at the Cook County Jail, where she chaired an interagency committee on transgender inmates. From there, she went on to become site medical director for Erie Family Health Center.

Like Matthews, Shah, the Sidley associate, started medical school before realizing he wanted to look at the big picture. “I was less interested in the immediate patient in front of me and a lot more interested in the tens of thousands of patients out there. I was interested in the public health, in the policy issues.”

To that end, he traveled to Cambodia on a Luce Scholarship to work as an economist for the government, where he worked to identify and eradicate corruption in the health care system. That experience cemented that he didn’t want to be a clinician, but rather preferred to “think about big problems in health care.”

Today, his day-to-day work might include writing a position paper on behalf of a client—often pharmaceutical and device manufacturers—or advising the client on new regulations. Shah also represents clients who are being investigated by the government for health care fraud. The Sidley partner he most often works alongside is also an MD.

“What we’ve found is that a lot of time with these issues, the ultimate advocacy is about the clinical facts,” Shah said. “What does the data show about these drugs? How are they used in everyday practice? Our backgrounds allow us to ask the right questions.”

That skill—of how to ask the right question—is certainly taught to everyone who attends the Law School. Alumni doctors who don’t practice law anymore still say they value the lessons learned here.

Timothy Craig Allen, ’98, earned his medical degree in 1984 from the Baylor College of Medicine in Houston. He was practicing as a pathologist in the 1990s when he was inspired to attend law school, like Brendel, by the talk of health care reform. He practiced at large firms in Houston and then completed a fellowship in pulmonary pathology. He returned to full-time medicine, and now he is Professor of Pathology at the University of Texas Medical Branch (UTMB) in Galveston.

Now, he feels he’s found a “sweet spot” between his interests. He spends most of his time in his specialty, pulmonary pathology, but he gets to tinker with the law too. He is an associate member of UTMB’s Institute for Medical Humanities, and he works on a variety of research projects related to legal and ethics issues in medicine. Allen recently wrote about legal issues related to telemedicine, which allows physicians to practice across state lines, and about FDA regulations over pharmaceutical sales. Allen frequently educates his fellow physicians and medical students about medical malpractice laws and other legal concerns.

“Things like the elements of negligence, which attorneys would totally take for granted, is a foreign concept to physicians,” he said.

Another pathologist, James Padgett, ’82, said he is the go-to guy to peruse regulatory documents in the pathology department at NorthShore University HealthSystem, in
the northern suburbs of Chicago. Padgett, who is Medical Director for the Highland Park Hospital laboratory, practiced tax law for a short time in the 1980s before deciding he didn’t like it; he earned his MD at the University of Illinois College of Medicine in 1990. Now, he practices anatomic pathology, making diagnoses on surgical specimens. He also holds an appointment as Clinical Assistant Professor in the Department of Pathology at Pritzker.

David Zwerdling, a psychiatrist in Silver Spring, Maryland, graduated from the Law School in 1969 and the Yale School of Medicine in 1975. He went to law school in the hopes of doing civil rights or human rights work; ultimately, he didn’t like the law very much. But he stayed, both because he wasn’t sure what else to do and because he didn’t want to be drafted into the Vietnam War. While in law school, he worked at what is now the Sonia Shankman Orthogenic School, serving children with severe emotional problems. That experience propelled him into psychiatry, he said.

Zwerdling spends half his time in private practice and the other half as Medical Director of Montgomery County (Maryland) Child and Adolescent Outpatient Mental Health Services. He has to consider legal issues in his practice, especially when his clients face custody or immigration cases. But mostly, his legal education is with him in how he thinks, he said.

“I’m very open to understanding that there’s more than one point of view and that one way to arrive at a good understanding when there’s a conflict is to make as strong a case as possible on both sides,” he said. “My legal education helped me learn that.”

SCHILL AND MALANI EDIT BOOK ON HEALTH CARE REFORM

Quite often, the loudest voices on health care reform have come from self-indulgent politicians and talking heads on TV. Luckily, there are more thoughtful and empirical perspectives on the subject, and the Law School is taking a leading role in making sure those are heard too.

To that end, Dean Michael Schill and Professor Anup Malani have edited a book on health care reform populated with articles from some of the top thinkers in law, economics, and medicine. The Future of Health Care Reform in the United States, which will be published by the University of Chicago Press this year, is a collection of articles inspired by an October 2012 conference hosted by the Law School and University of Chicago Medicine and Biological Sciences Division, with generous support from the Sidley Austin Foundation.

As the conference did over a year ago, the book tackles many of the complex questions that result from the passage of the Patient Protection and Affordable Care Act (ACA), signed into law by President Obama in 2010 and upheld by the Supreme Court in 2012.

“As the leading institution in law and economics, we are uniquely positioned at Chicago to examine these incredibly important topics, which affect every American,” Schill said. “We think applying legal and economic frameworks to health care questions could potentially identify new and better interventions to promote social welfare.”

The authors are both practitioners and academics; some favor the ACA, some oppose it, and others have nuanced views or take a purely observational, objective approach. All presented work at the conference.

Supreme Court litigator Carter Phillips, Partner and Chair of the Executive Committee at Sidley Austin, and Stephanie Hales, a Sidley associate, start the book with a chapter on the Supreme Court decision and what it means for the implementation of health care reform over the coming decades. Professor John Cochrane of the Booth School of Business wrote a highly critical chapter arguing that the ACA will make an inefficient US health care market even worse. Conversely, Professor Einer Elhauge of Harvard Law School argues that the ACA may improve the quality and lower the cost of health care.

Three Law School faculty members contributed chapters as well: Malani, Richard Epstein, and Aziz Huq. The Coase-Sandor Institute for Law and Economics organized the conference and is compiling the book under Schill’s direction. The conference also was supported by the Center for Health and the Social Sciences’ Fallon Lecture Series on Health and Law. The conference featured a few speakers who are not contributing to the book, including Austan Goolsbee, Professor of Economics at Booth and former Chief Economist for President Obama’s Economic Recovery Advisory Board. He was also Chairman of the Council of Economic Advisers and a member of the Cabinet.
Interdisciplinary Legal Education and Scholarship: The Case of Law and Philosophy

Brian Leiter, Karl N. Llewellyn Professor of Jurisprudence
The University of Chicago Law School has been at the forefront of interdisciplinary legal education and scholarship, and long before that became the norm in law schools nationwide. Law and economics is only the most famous example. Developed by Aaron Director and then Ronald Coase in the 1950s and 1960s, it took over legal education beginning in the 1970s thanks to the pathbreaking work of Richard Posner, William Landes, Richard Epstein, Frank Easterbrook, Daniel Fischel, Douglas Baird, and others. Some familiarity with the economic analysis of antitrust, of corporate law, and of bankruptcy is now part of the lingua franca for all scholars and lawyers working in these fields.

Perhaps less well-known is that the University of Chicago Law School hired the first full-time PhD philosopher to a law faculty in the United States back in the 1930s (he did not even have a law degree). Karl Llewellyn, one of the two leading figures in America’s most important indigenous jurisprudential movement, Legal Realism, was a member of the faculty from 1950 until his untimely death in 1962. (The other leading Legal Realist, Jerome Frank, was a member of the class of 1912 at the Law School!) Llewellyn’s biographer and jurisprudential torchbearer, William Twining, ’58, is the Quain Professor of Jurisprudence Emeritus at University College London and a fellow of both the British Academy and the American Academy of Arts & Sciences. Today, on a full-time academic faculty of only about three dozen members, Chicago has two philosophers: my colleague Martha Nussbaum (who also does not have a JD but has written widely for law reviews) and myself (I am a JD/PhD). A recent study by researchers at Indiana University Bloomington found that Judge Posner was the ninth most-cited scholar in the world, across all fields of study. It also found that Chicago was the only law school with two faculty (myself and Nussbaum) among the 100 most-cited philosophers in the world.

Why would philosophy loom so large in law schools, and why would Chicago want to have a leadership role in this field? The explanation has partly to do with the nature of philosophy as a discipline and partly to do with the deep affinities between law and philosophy.

Law is, first and foremost, a discursive discipline, by which I mean that lawyers and judges live in the domain of reasons and meanings. We interpret statutes and cases, articulate rules to guide behavior, and then argue about their import in particular cases. Judges write opinions, in which they give reasons for their conclusions. Lawyers offer arguments to persuade judges. Even lawyers (like my wife, who is healthcare regulatory lawyer here in Chicago) who never argue cases in court still deal continuously with rules, their meanings, and entailments.

Philosophy is, however, the discursive discipline par excellence. The English philosopher John Campbell (who now teaches at Berkeley) famously and quite perceptively described philosophy as “thinking in slow motion.” Philosophers argue and reason with a sometimes excruciating attention to detail and inference. Lawyering, especially in an oral argument before an appellate court, is often “thinking in fast motion,” but the key fact is that both disciplines are concerned with rational and logical thought. Lawyering typically demands more attention to rhetoric than has philosophy, at least since the time of the Sophists in the fifth-century BC. But the pejorative connotation of “sophistry” that has come down to us from Plato’s successful defamation of the Sophistic philosophers should not mislead us: there is an art to persuasion, and that art is only partly exhausted by the rules of formal and informal logic.

Plato’s successful defamation of the Sophistic philosophers should not mislead us: there is an art to persuasion, and that art is only partly exhausted by the rules of formal and informal logic.

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and teach the kind of dialectical skill that lawyering, as a
discursive discipline, requires.

It is equally important, however, that philosophy as a
discipline concerns itself with literally everything, whether
science or art or morality or law. We can always ask of any
of these domains of human activity, “What is its nature?
What makes it what it is?” Philosophers have asked this
about science, about art, and also about law. This is why
“jurisprudence”—philosophical theorizing about the
nature of law and legal reasoning, and the differences
between law and morality—has been a staple of the
curriculum wherever law is taught at the university level.
Indeed, it is a required subject for all law students at
reconstruction of the ideas of American Legal Realists, who
have often been treated harshly by other legal philosophers.
But the American Realists, who were first and foremost
very accomplished lawyers, had deep insights into how law
works in the real world and how judges really decide cases.
In twenty years of teaching jurisprudence, including
American Legal Realism, I have been struck by how many
students find it to be one of the most “practical” of
courses, not because it taught them particular legal r
ules,
but because it helped them understand legal reasoning and
how judges decide cases, as well as bringing out into the
open the implicit jurisprudential premises of both jurists
and scholars (including their other teachers!).

It is equally important that
philosophy as a discipline
concerns itself with literally
everything, whether science
or art or morality or law.

The influence of philosophers on the law has also been
substantial. When the “Chicago School” of economic
analysis of law took over the legal academy starting in the
1970s, it was philosophers such as the late Ronald
Dworkin and my colleague Martha Nussbaum who
articulated an alternative to “wealth maximization” (or
efficiency) as the normative goal of legal regulation.
(Dworkin defended the idea that the goal of the law is to
protect the preexisting rights that individuals have;
Nussbaum has argued that the law should maximize the
ability of humans to realize an array of capabilities that
make for a worthwhile life.) When Britain in the 1960s
debated whether to decriminalize homosexuality, it was H.
L. A. Hart of Oxford, the greatest Anglophone legal
philosopher of the last century, who extended John Stuart
Mill’s utilitarian philosophy of the nineteenth century to
argue that the law ought not to criminalize consensual
sexual behavior—his view ultimately prevailed. The other
great figure in twentieth-century legal philosophy, the
Austrian Hans Kelsen, designed the system of “constitutional
courts”—courts charged with judicial review of all legislation
for its constitutionality—that has been adopted through
the civil-law world. Nussbaum’s work with Amartya Sen in support of the idea that the measure of economic success is not simply gross domestic product but the extent to which a society enables its citizens to realize the different capabilities central to a worthwhile life (imagination, play, feeling, reasoning about how to live) has influenced the United Nations and emerged as an alternative to per capita wealth as a metric of economic success.

Law and philosophy enrich the curriculum in various ways. Each Spring, we try to make available at least one and sometimes two “law and philosophy” courses. I almost always teach the basic Jurisprudence course noted earlier, and Nussbaum usually offers a course on Feminist

Without a doubt, the lawyer/philosophers and the lawyer/economists have a tight intellectual bond. … We love an argument and are happy for that argument to be ferocious and cutting. We want to figure out what is true, even if doing so is not so polite.

Philosophy or Emotions, Reason, and the Law. Every year, we offer a Law and Philosophy Workshop, which brings in scholars from elsewhere to discuss their work. At most law schools, unfortunately, the workshop format is basically just an opportunity for faculty to invite their friends to present their latest work. We approach it differently. Each year we select a theme, so that over the course of the year the students develop a competence with a scholarly literature and a set of ideas and arguments. We often ask speakers to present previously published work, if that is the work that will help students the most. This year, Nussbaum, with our Law and Philosophy Fellow Sarah Conly, is running a workshop on issues about Life and Death, which ranges across issues such as abortion and euthanasia and engages philosophers and lawyers. Last year, I ran the workshop on the theme Freedom and Responsibility, where we took up questions such as, Is anyone really morally responsible? Can we hold people responsible without blaming them? Is criminal punishment justified if what people do is the product of biology?

The Law School’s investment in philosophy-related offerings has, interestingly, helped with student recruitment. Five or six years ago, only about 5–6 percent of the first-year class were philosophy majors; in Fall 2013, it was almost 10 percent. Many of these students—with undergraduate and graduate degrees from the best universities in the world—have come here rather than Yale or Harvard on Rubenstein Scholarships, which provide three years of tuition for outstanding students, thanks to the transformative gift by David Rubenstein, ’73. These students have varied ambitions: some will be the law professors of tomorrow, others will be the leading lawyers and jurists of the next generation. The commitment of the University of Chicago Law School to interdisciplinary research and teaching has brought them here.

David Hills, a philosopher at Stanford, famously said that philosophy is “the ungainly attempt to tackle questions that come naturally to children, using methods that come naturally to lawyers.” His apt observation prompts a very personal observation, one offered by a philosopher/lawyer who is now fortunate to have many economist/lawyers as colleagues. I graduated from Michigan, taught at Yale and Texas and Oxford and London, and have presented my work at almost every leading law faculty in the English-speaking world. Without a doubt, the lawyer/philosophers and the lawyer/economists have a tight intellectual bond. It is not that we share the same underlying theory of human behavior or emphasize the same methodological tools. It is rather that, like real lawyers, we love an argument and are happy for that argument to be ferocious and cutting. We want to figure out what is true, even if doing so is not so polite. But no one gets upset, or takes offense: arguing is what we do. We fight our battles in the domain of reason and meaning, something that unites the lawyers with the philosophers and the economists, as it does at the University of Chicago Law School. Socrates would have been pleased. 

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Worth a Volume of Logic: The Study of Legal History at the Law School

By Meredith Heagney
I f you’ve ever walked into Professor Richard Helmholz’s office, you know about the very old books. Dozens of thick tomes, lined on shelves along their worn, hand-bound spines, cover nearly the whole east wall. Most are hundreds of years old, and in Latin. For Helmholz, one of the world’s top historians in medieval and early modern English law, these books are anything but irrelevant old volumes.

As Oliver Wendell Holmes wrote in 1921’s *New York Trust Co. v. Eisner*: “a page of history is worth a volume of logic.” Helmholz takes it further: “If history is important, it’s important to get it right. We need to understand what happened on the ground and what it meant then.” Legal history is dedicated to this pursuit, of understanding today’s laws and debates in the context of the past. It is much more than a recollection of dates and characters, but rather a science with its own methodology and ethos. And all law, in a sense, is legal history, as it is built on precedent and shaped by its time.

At the Law School, three professors dedicate much of their time to teaching and writing about legal history. Helmholz, Ruth Wyatt Rosenson Distinguished Service Professor of Law, is joined by Alison LaCroix, Professor of Law and Ludwig and Hilde Wolf Teaching Scholar, and Laura Weinrib, Assistant Professor of Law. All three have a PhD in history as well as a JD.

Three well-regarded and active legal historians on one law faculty is an impressive number, said Patricia Minter, Associate Professor of History at Western Kentucky University and membership chair for the American Society for Legal History.

“One of the great strengths of a law school of the rank and reputation of Chicago is that they have three legal historians and others who are interested in the field, and this gives them a gravitas that is difficult to duplicate elsewhere,” Minter said.

Two Department of History professors, Jane Dailey and Amy Dru Stanley, also do important work in legal history and have appointments at the Law School.

The Law School’s legal historians each have their own specialty. Helmholz, a fellow of the American Academy of Arts and Sciences who has taught at the Law School since 1981, earned his PhD in medieval history from the University of California, Berkeley, five years after his JD from Harvard Law. In his history program, he developed an
LaCroix focuses on eighteenth- and nineteenth-century US legal and intellectual history. “What I like to do is study the history of ideas and use all these diverse sources to understand what these ideas meant at a given time,” she said. She was a history major in college at Yale University, where she also earned her JD in 1999. She took one seminar in legal history during law school; amazingly, a majority of the students in that seminar are now legal historians. She practiced law for a short time and then went to Harvard for her PhD, which she completed in 2007.

Much of LaCroix’s work centers on federalism, such as whether Congress can compel the states to take certain actions because of the spending power conferred in Article I of the Constitution. Today, those debates are around topics such as health care and immigration, but LaCroix looks to contextualize them by examining the debates of the past, such as the founding-era debates about giving Congress a veto over state laws, the Fugitive Slave Acts, and the public works projects of the early nineteenth century. She challenges common assumptions about the way the Supreme Court has “always” acted and shows that other approaches to federalism were taken in the past.

For example, she said, the modern Supreme Court has often taken a strongly protective view of state sovereignty. It has held that it is not up to the states to consent with federal laws, but rather the job of the courts to protect...
them from commandeering by Congress. This means that the Court has overruled acts of Congress even when the states have consented. But a review of the historical sources reveals that this view was not always held by legal and political actors in the federal government. For example, during the first decades of the nineteenth century, the consent of a given state was a key element in the debate about federal funding of public works projects, such as roads and canals. This and many other examples illustrate that ideas about federalism are far from fixed, LaCroix said.

Weinrib, a 2003 graduate of Harvard Law, completed her history PhD in 2011 at Princeton University. Her specialty is twentieth-century American legal history, with an emphasis on the history of civil liberties and labor history.

Weinrib’s attraction to legal history is that it gives scholars the “critical distance” to see the way law shapes social and cultural ideas and the way those ideas shape the law, she said. Legal history is a reminder that even concepts that we take for granted, such as the First Amendment, were anything but inevitable developments. Sometimes, we falsely see history as a slow progression toward ideal forms of laws and norms, she said, but really those laws and norms are the product of contending ideas about access to justice.

“I think history can help us recover lost paths that are useful in contemporary approaches to the law,” she said. She chooses to teach in a law school, rather than a history department, because she wants her work to have contemporary policy implications, which means it helps to be surrounded by people working on contemporary legal problems.

“I have a lot to learn from political scientists, philosophers, economists, and others who are studying the law,” she said. “In the time I’ve been here, my work has become much richer because of the conversations I’ve had.”

Now, she’s working on a book about the history of the modern civil liberties movement in the United States, with a focus on the period between World War I and World War II.

**LaCroix Helps Develop New Field**

Professor Alison LaCroix, a legal historian, taught the Law School’s first class on law and linguistics over Winter Quarter with Jason Merchant, Professor of Linguistics and Deputy Dean for Languages and Instruction in the University’s Division of the Humanities.

The class, Historical Semantics and Legal Interpretation: Questions and Methods, was a seminar that taught students to use the methodologies of linguistics to gain a better understanding of historical jurisprudence. The meaning of words and phrases change greatly over time; this is a way to analyze those changes in legal contexts, whether in the Constitution, statutes, codes, contracts, or any other source of law.

For example, in the Second Amendment, the words “keep and bear arms” invite many interpretations of meaning. Using linguistics methods and new search technologies, a legal scholar can find uses of that phrase in historical texts and gain an idea of its changing use over time.

This is a new field, and LaCroix and Merchant plan to publish together on the subject. Their class was supported by a grant from the Center of Disciplinary Innovation, part of the University’s Franke Institute for the Humanities.

“It’s very exciting, because it feels like something that could have a real impact on how judges decide cases,” LaCroix said. “It has really enormous applications across all fields of law, to tell us something that is the real goal of legal practice and legal scholarship: what do legal words and phrases mean, and how do we know?”

Merchant, who studies the interface between syntax and semantics, said the course combines their respective areas of expertise: LaCroix is an expert in the legal texts and their ambiguities, while he knows the technology and methodologies of linguistics, which takes a mathematical approach to analyzing language. Most of the students in the class were linguistics students, though a few law students did participate.

“It’s great to work with an expert on early American federalism and constitutional law like Alison, and even more fun to coteach with her,” Merchant said.
War II. She argues that it was this era in which the modern concept of civil liberties as rights asserted against the state and enforced through the courts emerged. It grew out of the labor movement and involved unlikely coalitions across the political spectrum.

The book will explain how a social movement evolved and grew and used the courts as an agent for change, which has relevance for plenty of modern causes, Weinrib said. The work also dives into the many limitations of the courts when it comes to the expansion of rights.

Helmholz, LaCroix, and Weinrib all agree that you can be a legal historian without having both degrees, but it does have its intellectual and practical benefits. For one, each discipline teaches distinct skills that are hard to pick up as an outsider. Two, in a competitive academic marketplace, top schools want their legal historians to have all the credentials. Scholars with JD/PhDs have training in the methodology of legal history, which involves intense reading of historical sources and learning the existing historiographical debates. “This is not just narrative, telling a story of the past,” Weinrib said. “It is constructing arguments about the past.”

LaCroix agreed, adding that a legal historian’s job is to investigate the source material without anticipating the outcome beforehand. Like law and economics, the data has to bear out, she added. To do that kind of research, it’s very helpful to have a full understanding of both legal and historical literature. “It’s hard to pick that up on the fly,” LaCroix said.

These days, almost all legal history is done in law schools, said Dailey, the history professor. She considers herself a historian with a legal interest, not a legal historian. She doesn’t have the JD, and “it’s close to essential” if your work is legal history, she said. Much of Dailey’s work is on the civil rights movement; she started working with law professors to gain some legal training and make her research better.

Obviously, legal scholars’ “grip on the law is surer than historians who haven’t had the formal law school training,” Dailey said. She also expressed gratitude for Dean Michael Schill’s support of legal history within the history department, where he has made funding available to PhD students who already have JDs and want to teach in law schools one day. This has helped the history department compete with other top schools for these students, Dailey said.

The Law School also hosts the annual Maurice and Muriel Fulton Lectureship in Legal History, created in 1985. Maurice Fulton is a member of the class of 1942, and his wife Muriel is an alumna of the University. Since its inception, the Fulton Lecture has grown in size and reputation. Last year, Professor David Armitage of the history department at Harvard University presented a critical history of the conceptions of civil war and its evolving legal definitions. This year, Professor Tomiko Brown-Nagin of Harvard Law School will speak on the life and legacy of Judge Constance Baker Motley, the first African-American woman
appointed to the federal judiciary.

Mr. Fulton said there was no legal history class when he was in law school, but he wishes there had been. He and his wife support the lecture series to ensure that the school’s commitment to legal history is sustained, he said. “The history of law is bound tightly with the subject of history,” he said. “I think the students, when they go through the Law School, are exposed to the history of law whether they like it or not.”

Assistant Professor Laura Weinrib shows off one of the great legal history research tools: the microfiche machine.

And they often do like it, said LaCroix, who finds that law students see legal history work as an enjoyable departure. During Winter Quarter, she taught a class on American legal history from the colonial period through Reconstruction. “They often say, it’s so nice to be reading things besides cases,” she said. “I think it feels to them like a different way to look at law. It feels grounded.”

A handful of her legal history students have proved capable research assistants for her upcoming book, The Interbellum Constitution, LaCroix said. Throughout the course of a seminar last Spring, they collected a stack of primary sources seven inches tall. “They liked seeing the inside of what their professors do. It felt really productive pedagogically.”

Abbey Molitor, ’15, worked as a research assistant for LaCroix last summer, helping find federalism sources for the book and a related Yale Law Journal article. Reading primary source materials such as letters of a Washington socialite from the early decades of the 1800s was “really fun,” Molitor said. “It was a lot more history than law, and it was fun to do that after a year of all law.”

Another enthusiastic legal history student, Mike Educate, ’14, said he has learned to view the study of history as “an act of persuasion.” For example, he wrote a paper for Professor Tom Ginsburg’s constitutional design seminar about the relationship between nationalist parties and the success of secessionist movements. He used Scotland as a case study, showing how the Scottish National Party used a historical narrative to sell the idea that Scotland is culturally distinctive from the rest of the United Kingdom. “It’s more than just ‘history matters,’ or ‘history is awesome,’” he said. “History actually has an instrumental, normative function. If you can effectively tie it to policy concerns, people are going to buy into it.”

Both Molitor and Educate said they would consider pursuing PhDs in history in the future. But even law students without an intense interest in legal history can use it to understand their own legacy as lawyers. As Helmholz explained: “Law is a learned profession. It should be about more than just making money. A lot of learning comes from understanding the past of what you’re doing,” he said. “You see yourself as part of something that’s been going on since the twelfth century, and even before that in Roman times. If you have a new idea, it has to fit within this system that has developed over the ages.”
Workshopping for Success

By Robin I. Mordfin

The University of Chicago Law School was a seminal force in using workshops to develop ideas and to perfect scholarly papers and articles. Today, workshops are ubiquitous on American campuses and have become essential to the academic process, but it was the Law and Economics giants at the University of Chicago who established the practice of bringing the best minds of different disciplines together to evaluate and encourage new work in an accessible, defined format.

The workshop phenomenon began in the autumn of 1960 when Aaron Director and George Stigler began running the Workshop in Industrial Organization. Director had founded the Journal of Law and Economics two years earlier and saw the workshop as a way for those interested in publishing to hone and perfect their articles. The workshop was held several times over the academic year and studied “the structure and behavior of industries, with special emphasis on the role of government and regulation.”

While the workshop was run by and held at the Law School, a healthy contingent of the economics faculty from across the Midway attended on a regular basis. In fact, according to Judge Richard Posner, senior lecturer in law, there were always more economics faculty present as it was seen as an economics workshop. Academics from leading universities as well as the University of Chicago were invited to the workshop to present nearly finished or in-progress papers for discussion and critique by the University of Chicago faculty. Drafts would be circulated a week or two in advance and would be closely read by everyone attending, including a handful of specially invited students, usually 3Ls. That week’s presenter would give a short talk about his work and would then have a little under two hours to hear comments and answer questions from the audience.

“It was very tough,” commented Posner. “In fact, it was brutal. Stigler was really smart, and he was very hard on his people, but very incisive. Ronald Coase and Aaron
time students were invited to enroll and could receive six
credits for completing a substantial paper. Industrial
Organization was run for the last time in the 1980–81 year.
“The workshop was a pressure cooker, and when I
arrived in 1972 it sent a very clear message of being seen
and not heard. Of course, there were these wonderfully
impossible people—George Stigler and his crowd of
geniuses who were not particularly good at developing
protégés,” Epstein said. “But today there is a much
stronger bend toward parity, everyone participates. And it
is much less of a pressure cooker experience. It is still a
sink-or-swim situation, but if you can swim, you can soar.”

Law and Economics is the longest-running workshop at
the Law School and holds such an esteemed reputation
that it attracts superstars of the academic world. Among
the multidisciplinary experts who have presented papers in
the last few decades are Yale’s George Priest and Alan
Schwartz, Harvard’s Steven Shavell and Louis Kaplow,
along with a slew of Chicago luminaries including Saul
Levmore, William B. Graham Distinguished Service
Professor Eric Posner

Professor; Richard Epstein; Daniel Fischel, Lee and Brena
Freeman Professor of Law Emeritus; and Gary Becker.
Landes and Posner ran the workshop until 1990, when
the faculty for the course began to change more regularly.
Douglas Baird, now Harry A. Bigelow Distinguished
Service Professor; Daniel Fischel; Randal Picker, now
James Parker Hill Distinguished Service Professor; David
Weisbach, Walter J. Blum Professor of Law; Lisa Bernstein,
Wilson-Dickinson Professor of Law; Omri Ben-Shahar,
Leo and Eileen Herzl Professor of Law; Lecturer in Law
Scott Davis; and Assistant Professor William Hubbard
have all taken the opportunity to help students and faculty
to make the most of their research.
“Law and Economics set the stage for the workshops we have today,” explained David Strauss, Gerald Ratner Distinguished Service Professor of Law. “The workshops really serve three purposes. First, there is the pedagogical purpose, in which the students get to see the real sausage-making process of scholarship. Second, they are a wonderful way to bring to the Law School ideas from other schools. And third, they provide yet another way for faculty to get together to question ideas and to spin off conversations that lead to more ideas to investigate.”

Professors began to see the benefits of creating workshops in their areas of expertise: they would provide opportunities to meet with leaders in their field while reading and critiquing their work and would also provide opportunities to teach a new generation the art of legal scholarship. For example, Geoffrey Miller started the Workshop in Legal Theory in the Fall of 1989. The workshop, according to the Law School Announcements, looked at “a variety of selected topics in the area of legal theory. Among other subjects that may be addressed are the role of self-interest in legal theory: republican, interest-group, and pluralist theories of legislation; the legal and moral standing of lies, omissions, and partial truths; legal anthropology; and the relations among legal, theological, and literary principles of interpretation.”

But what truly set the Legal Theory apart from the other workshops offered at this time was that part of the intent of the workshop was student involvement. At each of the six sessions at which papers were to be presented, students were expected to write one- or two-page critiques to bring to class. They were also required to write a substantive paper on an area of legal theory.

“The idea behind was to have an interdisciplinary workshop that involved disciplines other than economics,” said Strauss, who took over Legal Theory in 1994. “So we invited philosophers, I think some literary critics, political scientists, and political theorists, as well as legal scholars whose work drew on those disciplines.

“When the Law and Philosophy workshop started, it took over much of that terrain, and around that time, we converted the Legal Theory Workshop into the current Constitutional Law Workshop,” Strauss continued. “The idea was to shift the emphasis somewhat more toward law and away from the associated disciplines, just because those
other disciplines were covered well by other workshops. But one interesting aspect of this is that, over time, legal scholarship has become more and more interdisciplinary, so that even a law-focused workshop, like Con Law, will bring in lots of people whose work is influenced by other disciplines.”

The Workshop in Law and Philosophy was inaugurated in the Spring Quarter of 1994 when Martha Nussbaum, Ernst Freund Distinguished Service Professor of Law and Ethics, was visiting faculty and was funded by the university’s new Humanities Center, now known as the Franke Institute. “The basic idea was that law and philosophy usually intersect on a very narrow terrain, that of technical jurisprudence; and yet the law uses many concepts that philosophers have investigated, and we thought that both disciplines would profit from collaborative investigation of the way these concepts work in law and the ways in which they are analyzed in philosophy,” Nussbaum explained. “The initial group was faculty only, and the first time we tried it out we had sessions on a variety of different concepts, but when I moved to Chicago full-time, we began the system of holding the workshops on a single topic throughout the year.”

Law and Philosophy began accepting students in 1999, and the speakers for the workshop have come not only from the University of Chicago but also from philosophy and law faculty from Northwestern University. Topics investigated in the past include autonomy, equality, privacy, race, gender and family, and global equality. In 2007, Brian Leiter, Karl N. Llewellyn Professor of Jurisprudence, joined the Law School faculty and began supervising the workshop with Nussbaum. This year’s topic is life and death.

Strauss and Adrian Vermeule started supervising the Workshop in Constitutional Law in the Fall of 1999. The workshop exposed students to “to recent academic work in constitutional law and the theory of constitutional interpretation.” Strauss’s aspiration is to create a rigorous but civilized environment, where paper are read and considered seriously and where good questions are asked and answered. Clearly, the notion that workshops should be encouraging is something of a response to the harsh reputation established by the Workshop in Industrial Organization. But Strauss is hardly the only one looking to make his workshop civilized.

“Today, Chicago has a reputation for being tough but civil at the same time, and it is nice that our workshops have now developed both reputations,” noted Professor of Law Alison LaCroix. “Having presented at workshops at other schools, I think it is clear that we are modeling to students how to have civil and rigorous academic discourse. Sometimes other schools and faculty set up students to ask questions and the presenter is merely a foil. They just attack and are not interested in actually improving the work. In other cases, workshop attendees have not read the paper. But Chicago has a very strong norm that everyone comes to the workshop having read the paper, which creates a much more collaborative environment.”

A number of other workshops formed over the next decade. Thomas Ginsburg, Leo Spitz Professor of International Law, and Eric Posner, Kirkland and Ellis Distinguished Service Professor, started the Workshop in International and Comparative Law in 2008. It meets four times in the first quarter every other year and offers students the

CURRENT WORKSHOPS AT THE LAW SCHOOL

The Law School currently runs seven workshops, not all of which run every year.

Constitutional Law: Presents papers on constitutional law, the theory of constitutional interpretation, and related public law subjects.

International and Comparative Law: Offers students the opportunity to read and respond to cutting-edge research in the field of international and comparative law.

Law and Economics: Experts in the fields from the Law School and other universities examine a range of topics using the tools of law and economics.

Law and Philosophy: Faculty from related disciplines from Chicago and other universities each year study a topic that arises in both philosophy and the law and ask how bringing the two fields together may yield mutual illumination.

Public Law and Legal Theory: Examines topics from the former American Legal History, Crime and Punishment, and Law and Politics workshops.

Regulation of Family, Sex and Gender: Exposes students to recent academic work in the regulation of family, sex, gender, and sexuality in feminist theory.

Judicial Behavior: Provides students with a unique opportunity to read and analyze cutting-edge scholarship that focuses on how judges reach their decisions.
opportunity to read new research in the field.

“International law is the most important area of law in the world now because of globalization, and we would be doing our students and faculty a disservice if we are not engaging in the topic,” said Ginsburg. “These days, you cannot advise clients on antitrust, arbitration, or even divorce in Peoria without a knowledge of international law, because everything has global strings.”

In 2008, Mary Anne Case, Arnold I. Shure Professor of Law, founded the Regulation of Family, Sex, and Gender Workshop, which looks at these issues through a feminist theory lens. “We like to show the Law and Economics people how their methods can be used to consider a variety of different topics that they might not have thought about,” Case noted. “The presenters I bring in are all experts in the field, but they are not all lawyers. I invite people who specialize in different areas, like history. But their work is always relevant to the law.”

That year veteran workshop supervisors Landes and Posner started the Workshop in Judicial Behavior, which provides students “with the opportunity to read and analyze cutting-edge scholarship that focuses on how judges reach their decisions.” The workshop accepts a limited number of students from the Law School and from Northwestern University Law School. “We try to invite speakers who are mostly, but not all, academics, who have something interesting to say about judicial behavior,” Posner said.

A group of other workshops that concentrated on public law also started in this period, including American Legal History, Crime and Punishment, and Law and Politics. These workshops brought even more new faculty into the workshop world.

“The idea was to hear about cutting-edge research at the forefront of the field, and there is no better way to do that than to invite accomplished scholars to present their most recent work,” explained Jonathan Masur, deputy dean and professor of law, who spent his first couple of years as a member of the faculty helping to run the Law and Politics Workshop, which looked at the legislative process, electoral structures, and constitutional constraints on political institutions.
But with so many new workshops, getting faculty to attend them all was becoming something of a problem. In 2009, these three workshops and Legal Theory were combined in the Public Law and Legal Theory Workshop.

“I remember talking to several faculty members one day and saying that there were just too many workshops. That was when we decided to combine a few of them into one workshop,” noted LaCroix, who had been running the history workshop. “The beauty of the current workshop is that it is broad enough to absorb all these ideas and that it is both lunch and intellectual stimulation. It’s broad enough to absorb all these workshops, and it allows us to invite all kinds of academics—not just lawyers.

“It’s also nice to have this workshop because while the Law School is mostly known for Law and Economics, we have an incredibly strong public law faculty. We have experts in voting rights, democracy, con law, administrative law—and this offers us the opportunity to stay connected to colleagues at other schools.”

Part of the growth of popularity in workshops around the nation is the changes that technology has brought to the development of scholarly work. With the advent of SSRN and other databases, everyone in a field has already read a paper by the time it is published. That exposure brings commentary and critiquing previously not available until after an article appeared in a journal. The workshop process can offer researchers constructive feedback before a paper appears online or in print.

Today, workshops are an integral part of how law professors are hired. Many schools evaluate candidates by how they perform in a workshop environment because it gives the faculty the opportunity to see how candidates approach scholarship and how they perform in a collaborative intellectual environment.

“In 2006 or 2007, Eric Posner invited me to give a paper at his workshop, and when I arrived Saul Levmore, who was dean at the time, was sitting in the room,” Ginsburg said. “I gave the paper and went home. Then I got a phone call to come back.”
Reconstructing Contracts

By Robin I. Mordfin

Regardless of their areas of specialization, musicians of every ilk have a handful of core pieces they are expected to know intimately and which affect the way they approach all the other pieces they play. Similarly, every attorney in the country is deeply familiar with a group of classic cases that are still under discussion and are still influencing the way cases are decided today.

Of course, the way these cases are viewed changes as society and legal practice change. Consequently, every few years, a legal scholar sits down and writes a book about how these cases are considered in their time and place. Forty years ago, in the world of contract law, it was Grant Gilmore and his landmark volume The Death of Contract. Today, it is Professor Douglas Baird and Reconstructing Contracts.

“I wanted the book to be intensely readable and accessible, not heavily footnoted, but something that offered a broad view that might give people something new,” Baird explained. “I wrote it while on vacation in Michigan. I thought it would be fun. And it was.”

According to Baird, what has changed fundamentally since the publication of The Death of Contract is that while Gilmore questioned the usefulness of legal rules, we are currently in a neoformalist era in which the legal world sees a renewed interest in legal rules and the ways in which they help parties organize their transactions.

“The book takes stock of the last forty years and sees how things have changed. In the middle of the twentieth century, people like Karl Llewellyn and other Legal Realists believed that commercial law could be derived from the norms and practices of merchants,” Baird noted.

More recently, other scholars, such as Wilson-Dickinson Professor of Law Lisa Bernstein, have shown the dark side of this approach. Commercial standards often prove too vague to give clear guidance. Formal rules have an important role to play.

“Of course, to look at cases this far back it is essential to understand that the formalism we speak of now is different than the formalism of 150 years ago,” Baird explained. “At that time, formalism was looked at as God given. People like Langdell believed that the common law was fundamental and immutable. Old formalism was seen as almost magical. Today, formal rules are looked at as a way to organize a coherent system.”

The larger message of the book is that the principles we fashion in law cannot be independent of time and place. To lay out the bones of his argument, Baird begins with a discussion of the difference between a subjective meeting of the minds and objective intent, using the infamous 1864 case Raffles v. Wichelhaus. Also known as the Peerless case, the plaintiff and the defendant entered into a contract for the sale of a certain number of bales of cotton arriving by ship from India. The ship was called the Peerless, but two ships of that name sailed from Bombay. After the first arrived and the defendant did not appear, the plaintiff filed for breach of contract, while the defendant was waiting for a ship that was due to arrive two months later. The chapter follows the evolution of thought about the case, from the initial use of subjectivity in the decision, to the modern-day acceptance of objectivity as a court standard. “We are better off living in a world in which we can assess each other's objective actions according to benchmarks that are easily visible.”

The book moves through all of the expected contractual ground, but with an eye toward how these cases are relevant in the United States of today and how different issues take precedence as times change. For example, Baird devotes an entire chapter to fine print, a persistent issue in today's complex technological environment. The chapter looks at fine print in relation to paternalism, regulation, and how cases that were decided more than fifty years ago are still in use even though the consumer's world is entirely different.

“What remains deeply troubling, however, is the extent to which cases as outdated as Henningsen v. Bloomfield Motors continue to define the contours of the debate,” he wrote in the last chapter. “In few other fields, even in law, has conventional thought been so fused in amber.”

In Henningsen v. Bloomfield Motors, the buyers of a car sued a carmaker for the consequential damages from an accident caused by a defective steering mechanism. The buyers had signed a waiver that, in the fine print, obligated...
them not to sue for consequential damages, but the court ruled in favor of the buyers because of “the gross inequality of bargaining position.” After six decades, Baird finds this reasoning to be outdated.

He believes that part of the problem with the issue of fine print in general is that some law professors are so caught up in the reams of words that they are lost in the weeds. “They believe that Apple, as a big company that sells to millions, may be out to get the consumer. But if Apple wanted to play games why would they start with fine print and why would it think it could get away with it, quite apart from contract doctrine? More to the point, it no longer makes sense to think that consumer contracts involve bargaining in any traditional sense.”

“Let’s stop kidding ourselves that people are reading these contracts,” Baird pointed out. “The right question is what can be done with legal rules to make the world a better place, a place where consumers enjoy the benefit of Apple competing with others to offer better computers with better contracts.”

Still, as Baird is the first to point out, most of these old cases and constructs are still extremely relevant. For example, while criticizing Holmes’s “Bad Man” view of contract law, he recognizes an important virtue. While it does not account for everything, it does capture a large part of the waterfront, and, invoking one of Walter Blum’s favorite maxims, “In law, as in life, 95 percent is perfection.”

Interestingly, the book is not all famous cases. The reader has the opportunity to step into the author’s past a bit, with a story about his how his mother saved her allowance for months to see Croatian soprano Zinka Milanov sing Aida and the issues that arose when the tenor fainted in the first act. This is followed later on with a discriminating look at the jewelry industry’s standards as represented by an emerald brooch Baird’s father purchased as a birthday present for his mother.

This pithy, accessible volume is packed with analyses of how Oliver Wendell Holmes, Richard Posner, and other great judges and scholars considered cases and elucidates the differences among their approaches. But ultimately, the real message of the book can be summed up in the volume’s very last line: “As Aristotle reminds us, fires burn here as in Persia, but the laws are different.”

Professor Douglas Baird
Books by Alumni Published 2013

Charlotte Adelman, ’62
The first single, comprehensive resource for locating North American public prairies, grasslands, and savannas, this book uniquely catalogs the continent’s most well-known prairie sites by country and state for easy reference.

Timothy C. Allen, ’98
Advances in Surgical Pathology: Mesothelioma (Wolters Kluwer) (with Richard L. Attanoos)
A volume in the Advances in Surgical Pathology series, and created as a quick review, this volume delivers a concise, updated review of the pathological characteristics of mesothelioma—emphasizing the histologic correlation, clinical management, and treatment of the disease.

Robert Bird, ’93
The Overwatch (CreateSpace)
In this sequel to The Observer, Amery Hardenbrook returns to Iraq to pursue the shadowy connection between militant splinter groups and their foreign sponsors.

Lynn Branham, ’80
The Law and Policy of Sentencing and Corrections in a Nutshell (9th ed. Thompson Reuters)
This reference tool offers an overview of sentencing laws and prisoners’ rights, including the sentencing process, rights of incarcerated individuals, mechanics of litigating suits and remedies, and constitutional questions yet to be resolved by the Supreme Court.

This casebook covers many topics, including plea bargaining, rights during sentencing, sentencing statutes and guidelines, community sanctions, the death penalty, and cruel and unusual punishment in noncapital cases.

Saving the Neighborhood: Racially Restrictive Covenants, Law, and Social Norms (Harvard University Press)
Saving the Neighborhood tells the still controversial story of the rise and fall of racially restrictive covenants in America and offers insight into the ways legal and social norms reinforce one another, acting to codify and perpetuate intolerance.

Steve Donahue, ’11
Spiral Revolutions: College Football’s Conference Warfare (CreateSpace)
Donahue recounts the history of the college football, focusing particularly on the creation of the NCAA and the athletic conferences that rule the sport today.

Judge Leonard Edwards, ’66
The Role of the Juvenile Court Judge: Practice and Ethics (California Judges Association)
This book uses hypothetical scenarios that juvenile court judges may encounter in their work on the bench, identifies practice and ethical issues, and proposes approaches, offering advice and solutions to the judicial officer.

Seth Eisner, ’76
Journey to Galumphagos (CreateSpace)
In this fantastical adventure for middle-grade readers, three siblings discover that running away from problems might create more of them.

Ira Fistell, ’64
Mark Twain: Three Encounters (Xlibris)
Fistell examines four of Mark Twain’s novels (Tom Sawyer, Huckleberry Finn, Connecticut Yankee, and Pudd’nhead Wilson) in light of the locations where Twain lived and America’s contemporaneous cultural context.

George Fletcher, ’64
My Life in Seven Languages (Mazo)
This linguistic memoir probes Fletcher’s legal experiences, family relationships, and being thrust to the forefront of the international legal world due to his fluency in multiple languages.

Lawrence M. Friedman, ’51
Death of a One-Sided Man (Quid Pro Press)
In this mystery, part of the Frank May Chronicles series, May attempts to unravel the massive Mobius estate amidst the quirks and squabbles of the remaining family members.

Mike Gerhardt, ’82
The Forgotten Presidents: Their Untold Constitutional Legacy (Oxford)
Their names linger in memory mainly as punch lines, synonyms for obscurity: Millard Fillmore, Chester Arthur, Calvin Coolidge. But this book examines how many forgotten presidents boldly fought battles over constitutional principles that resonate today.

Larry Goldstein, ’79
This volume, intended for entrepreneurs, engineers, patent attorneys and agents, corporate executives, and investment advisors, seeks to answer the questions, “What is a high-quality patent?” and “What is a valuable patent?”

James Goodale, ’58
Fighting for the Press: The Inside Story of the Pentagon Papers and Other Battles (CUNY Journalism Press)
Goodale, chief counsel for the New York Times during the Pentagon Papers, tells the behind-the-scenes stories of the internal debates and the reasoning behind the strategy that emerged as the press’s freedom of speech came under its most sustained assault since the Second World War.

Joanna Grisinger, ’98
The Unwieldy American State: Administrative Politics since the New Deal (Cambridge University Press)
Grisinger offers a political and legal history of the administrative state from the 1940s through the early 1960s, after Progressive Era reforms and New Deal policies shifted a substantial amount of power to administrators.

James L. Huffman, ’72
Private Property and the Constitution (Palgrave Macmillan)
Huffman outlines instances where police power, eminent domain law, and property rights have clashed in the courts, detailing how government interacts with public rights both successfully and unsuccessfully.

Private Property and State Power (Palgrave Macmillan)
Based on the premise that private property is important to both individual welfare and the public interest, this book provides an intellectual framework for the analysis and resolution of contemporary property rights disputes.
Anna Ivey, ’97
How to Prepare a Standout College Application (Jossey-Bass) (with Alison Cooper Chisholm)
Ivey, former dean of admissions at The Law School, explains what college admissions officers are looking for and shows applicants how to leverage their credentials, stand out in the overcrowded applicants’ pool, and make a genuine, memorable impression.

David James, ’60
The New Asia: Business Strategies for the Economic Region That Is Shaking up the World (ABC-Clio Publishing) (with Rajeev Merchant)
To help readers better grasp the causes and effects of the ongoing tectonic shift in economic power, this book examines the 16 nations driving the explosive economic growth of Asia.

Sheldon L. Lebold, ’60
The Legacy of Moses and Akhenaten (Berwick Court Publishing)
Lebold examines the controversial theory that Moses and the Pharaoh Akhenaten were one and the same, suggesting that crucial pieces of the story have been overlooked.

Judith Weinshall Liberman, ’54
Passion: Poems of Love and Protest (Universe)
This collection of 150 poems and lyrics is illustrated with photographs that highlight some of the people depicted in the verses and covers a wide array of topics arranged in categories from love and relationships to looking back and remembering.

Eric Lindner, ’85
Hospice Voices: Lessons for Living at the End of Life (Rowman & Littlefield)
Lindner, a part-time hospice volunteer, reveals the thoughts, fears, and lessons of those living the ends of their lives in the care of others, having exhausted their medical options or ceased treatment for their illnesses.

Joe Mathewson, ’76
Law and Ethics for Today’s Journalist: A Concise Guide (M.E. Sharpe)
This book focuses on the relevant and practical understanding of law and ethics that aspiring and working journalists need to succeed at their craft, including legal protections, limitations, and risks inherent in everyday reporting.

J. William McDonald, ’71
Defend and Develop: A Brief History of the Colorado Water Conservation Board’s First 75 Years (Weldone Press) (with Thomas V. Cech)
A history of Colorado’s water management from 1937 to the present, including intrastate and interstate compromises, regulations, and statutes, as well as new programs that served to alter and expand the focus of water management.

Sir Geoffrey Palmer, ’67
Reform: A Memoir (Victoria University of Wellington Press)
In this memoir, Geoffrey Palmer, former prime minister of New Zealand, recounts the events and forces that shaped him, as well as his many adventures in reforming a wide range of institutions, laws, and policies.

Robert Rachlin, ’60
The Law in Nazi Germany: Ideology, Opportunism, and the Perversion of Justice (Berghahn Books) (edited with Alan E. Steinweis)
This volume offers a concise and compelling account of how these intelligent and well-educated judges, lawyers, and civil servants lent their skills and knowledge to the Nazi system of oppression and domination.

Elisa Ramundo, ’10
William E. Kovacic: An Antitrust Tribute (Institute of Competition Law) (edited with Nicolas Charbit, Anna Chehtova, and Abigail Slater)
This libel amicorum was launched on the occasion of Professor William E. Kovacic’s retirement from the US Federal Trade Commission and pays tribute to his work as a professor, public official, and international entrepreneur.

2013 Competition Case Law Digest: A Synthesis of EU and National Leading Cases (Institute of Competition Law) (edited with Nicolas Charbit and Maly Op-Courtaigne)
This digest is a selection of 51 essays on European competition case laws from the 27 European Union member states and neighboring states, in two parts: Competition Provisions and Business Sectors.

Paul Rosenzweig, ’86
Cyber Warfare: How Conflicts in Cyberspace Are Challenging America and Changing the World (Prager)
This book provides an analytical foundation for thinking about cybersecurity law and policy questions, including topics such as malicious software, encryption, hardware intrusions, and privacy and civil liberties concerns.

Helen Sedwick, ’84
Coyote Winds (Ten Gallon Press)
Set on the western prairie in the early 1930s, Coyote Winds explores a time when the American spirit was full of optimism and confidence. Sedwick portrays the can-do attitude that drew people to the frontier and examines its consequences, both good and bad.

Natalie Shapero, ’11
No Object (Saturnalia)
In her debut collection, Shapero, a fellow with the Kenyon Review, crafts honest poems that surprise and delight.

Robert Sitkoff, ’99
Wills, Trusts, and Estates (9th ed. Aspen Publishers) (with Jesse Dukeminier)
This edition retains previous editions’ blend of wit, erudition, insight, and playfulness while covering all the key topics in a logical, clear organization, with a completely new design for a clearer presentation of core material.

Andrew Smith, ’88
Sand in the Gears: How Public Policy Has Crippled American Manufacturing (Potomac Books)
Smith argues that the decline of American manufacturing is due not to forces beyond our control, such as globalization and cheaper labor overseas, but to misguided policies that are well within our abilities to reform for the benefit of manufacturing.

Stephan Wiiske, ’96
Guerrilla Tactics in International Arbitration (Wolters Kluwer) (edited with Günther J. Horvath)
The authors adopt an analytic view of guerrilla tactics in arbitration as a broad collective of unconventional means that undermine the mechanism’s envisioned mode of operation, offering practical, hands-on discussions that give this topic foundation.

The preceding list includes alumni books published in 2013 that were brought to our attention by their authors. If your 2013 book is missing from this list, or if you have a 2014 book to announce, please send a citation and brief synopsis to m-ferziger@uchicago.edu. We look forward to including these books in the next Alumni Books column (Spring 2015).
Law Firm Challenge

The 2013–2014 Law Firm Challenge is underway. Thanks to the tireless efforts of firm representatives, law firm giving reached new heights last year. We expect this year’s Challenge to achieve even greater success. Contribute to the Law School and support your firm by making your gift today.

In addition to firmwide participation, this year’s Challenge will focus on maximizing the membership in our Dean’s Circle. To become a Dean’s Circle member, a minimum gift of $1,000 must be made by June 30, 2014. The firms with the highest percentage of Dean’s Circle members will be recognized by the Law School.

Below are the final results from the 2012–2013 Challenge. Help your firm surpass last year’s numbers with an online gift at www.law.uchicago.edu/give/firmchallenge.

GROUP 1

Kirkland & Ellis LLP
Latham & Watkins LLP
Mayer Brown LLP
Sidley Austin LLP†
Skadden, Arps, Slate Meagher, & Flom LLP

GROUP 2

Baker & McKenzie
Cleary Gottlieb Steen & Hamilton LLP
Debevoise & Plimpton LLP
DLA Piper
Foley & Lardner LLP
Gibson, Dunn & Crutcher LLP
Jenner & Block
Jones Day
K&L Gates LLP
 McDermott Will & Emery
Schiff Hardin LLP†
Winston & Strawn

GROUP 3

Baker Botts LLP
Barack Ferrazzano Kirschbaum & Nagelberg LLP
Bartlit Beck Herman Palenchar
& Scott LLP††
Covington & Burling LLP
Dentons US†
Katten Muchin Rosenman LLP
Neal Gerber & Eisenberg LLP††
O’Melveny & Myers LLP
Paul Hastings LLP
Paul, Weiss, Rifkind, Wharton & Garrison LLP
Perkins Coie LLP
Ropes & Gray LLP
Simpson Thacher & Bartlett LLP††
Wachtell, Lipton, Rosen & Katz
White & Case LLP
WilmerHale
Wilson Sonsini Goodrich & Rosati†

GROUP 4

Chapman and Cutler LLP
Cooley LLP
Cravath Swaine & Moore LLP
Crowell & Moring LLP††
Davis Polk & Wardwell LLP
Dechert LLP
Dorsey & Whitney LLP
Drinker Biddle & Reath LLP
Edwards Wildman Palmer LLP††
Faegre Baker Daniels LLP††
Fox, Swibel, Levin & Carroll, LLP††
Fulbright & Jaworski LLP†
Goldberg Kohn
Goodwin Procter LLP
Hogan Lovells
Hunton & Williams LLP
Irell & Manella LLP†
King & Spalding†
Locke Lord LLP
Orrick Herrington & Sutcliffe LLP
Proskauer Rose LLP
Quinn Emanuel Urquhart & Sullivan, LLP
Seyfarth Shaw LLP
Sterns Weaver Miller Weissler
Alhadef & Sitterson††
Vedder Price
Weil, Gotshal & Manges LLP

†Firms with 75 percent or more alumni participation
††Firms with 100 percent alumni participation
Bolded denotes group winner
Schiff Hardin Helps Law School Grow Leaders

Schiff Hardin LLP has provided a generous gift in support of the Law School’s new Kapnick Leadership and Professionalism Initiative. The initiative will present an expansive leadership development curriculum to all first-year students beginning this fall. The program, modeled after the highly successful LEAD program pioneered at the Booth School, will focus on leadership styles, interpersonal communication, teamwork, and presentation skills.

The skills that are at the heart of the Kapnick program—leadership, teamwork, and communication skills—are critical to long-term success in practice.”

Substantial accolades attest to the success of Schiff Hardin’s efforts. InVault’s 2014 rankings of US law firms, Schiff Hardin rated very high in the categories of associate-partner relations and firm culture and placed among the top five in the nation in overall diversity, diversity for women, best summer program, and summer program that best prepares for practice. From other organizations, Schiff has received recognition as the best law firm in the Midwest, as the firm with the best mentoring program in the nation, as a top firm for women in business law, and as a leading Illinois law firm for lesbian, gay, bisexual, and transgender inclusion and equality.

Although the full Kapnick program will be inaugurated in the fall for members of the class of 2017, Schiff Hardin has sponsored prototype activities for members of the class of 2016. Jeff Anderson, the Booth School’s associate dean for leadership development, taught a session on managing initial impressions; the Second City improvisational theater company presented a workshop to all first-year students to improve their communication skills and help them become more comfortable thinking on their feet; and Marsha Hunter, a nationally recognized expert in oral advocacy, led workshops on public speaking.

Schiff has also supported the Law School’s Keystone program, and it hosts a breakfast for incoming students to kick off orientation. Dean of Students Amy Gardner observes, “We have been fortunate to have many firms back our professionalism and leadership programs, but none has been more generous with their time, expertise, and resources than Schiff.”

When the full program begins in the fall, Schiff Hardin’s gift will support the law student “facilitators”—second- and third-year students who will lead specific course segments with guidance from subject-matter experts. “The facilitators are critical to the program’s success,” Lisa Brown explains. “They not only teach the core skills but also model those skills in their teaching. When they do it well, it’s not just a great peer-to-peer learning experience for the first-year students; it also reinforces each facilitator’s skill set.” Schiff will provide stipends for the facilitators and underwrite the costs of the training they receive.

Schiff’s chairman Riley says, “I’m proud that our firm is supporting this important and innovative program, which is another example of the Law School’s commitment to providing the best legal education for its students.”
Ambassador’s Life, Gifts Inspire Service

A substantial gift from James C. Hormel, ’58, will provide a three-year full-tuition scholarship each year to an entering student who has demonstrated a commitment to public service.

Mr. Hormel’s commitment to supporting Law School students and graduates working for the public interest began with a 1986 gift that he has generously supplemented in subsequent years to create the foundation for many of the substantial forms of financial support that the Law School offers today.

“Even back in 1986,” Hormel says, “it was clear that debt burdens were deterring some graduates from pursuing public service jobs and careers. Today the financial challenge is considerably more severe, even as our country needs more of its brightest lawyers to apply their talents for the public good.”

Hormel’s own record of service is exemplary. He was US ambassador to Luxembourg, and he served on two United Nations delegations. He is a founding board member of Human Rights Campaign, the largest civil rights organization working to achieve equality for lesbian, gay, bisexual, and transgender Americans, and he financed the Gay and Lesbian Center at the San Francisco Public Library, which includes the world’s largest collection of LGBT materials. He has established a faculty chair in social justice at his college alma mater, Swarthmore, and has been a member of Swarthmore’s board of managers almost continuously since 1988. He also serves on five other nonprofit boards and is one of only four people to have received a lifetime appointment to the Law School’s Visiting Committee.

His 1999 appointment as ambassador to Luxembourg capped Hormel’s five-year quest, against fierce opposition, to become the first openly gay US ambassador. He says that he realized when he was sworn in to his position that he was the highest-ranking openly gay official in the US government. “That was a big moment,” he has said, “not just for me but for a whole constituency that had been held back for all of our history.” His 2011 memoir, Fit to Serve, describes both the political struggle to attain that ambassadorship and his personal struggles to acknowledge, come to terms with, and eventually declare his sexual orientation.

From 1961 to 1967, he served as the Law School’s first full-time dean of students and director of admissions. He recalls his experiences at the Law School fondly: “As a student, I received a rigorous, challenging, and inspiring education from a magnificent faculty. That education has served me well in all that I have done. I loved my time at the Law School, and when Dean Levi invited me to return as dean of students, it was like being readmitted to paradise.”

As admissions director, he worked to increase the representation of women and people of color at the Law School. Regarding LGBT issues, he says, “It might have benefited more students if I had been openly gay then, but I had spent my life trying not to be gay, and I still had not really recognized sexual orientation as a legitimate equality issue. Maybe it’s worth remembering that I was living in a world in which it was difficult for anyone who was gay to imagine there wasn’t something wrong with them.”

By the end of his tenure as dean, he says, “I had gone from being a model husband and father to a divorcé; from a Republican to a very left-wing Democrat; and from a timid person to someone on the verge of taking charge of his life.” He moved to New York, then to Hawai’i, increasing his self-assurance and deepening his political convictions as the years passed.

In 1977, he settled in San Francisco, where he founded his investment and philanthropy company, Equidex, and where he lives today with his life partner Michael Nguyen. He enjoys warm relationships with his former wife and their five children, fourteen grandchildren, and seven great-grandchildren.

“I wrote my book primarily to help all people, not just those who are gay, recognize that they have the power within them to make a difference in this world,” he says. “I hope that these new Hormel Scholarships, along with the other aid the Law School offers, will help more people to make a positive difference through public service.”
NBA Chief Gives Back to his Alma Mater

Adam Silver, ‘80, has made a significant unrestricted gift to the Law School.

Silver is the commissioner of the National Basketball Association, having assumed that position in February as the successor to David Stern, who had been commissioner for thirty years. He oversees an organization with more than 1,100 employees in fifteen offices in twelve countries, whose revenue last year exceeded $5 billion.

He joined the NBA in 1992 as a special assistant to Stern. He became the league’s chief of staff the next year, then served as senior vice president and later president and chief operating officer of NBA Entertainment, and became deputy commissioner of the NBA in 2006. He is credited with a leadership role in many of the NBA’s most notable accomplishments, including making basketball into a global sport (game telecasts are now carried in 215 countries and territories in forty-seven languages); creating two new leagues (the NBA Development League and the Women’s National Basketball Association); launching a 24-hour television channel; and building the NBA.com network, which consists of more than sixty unique websites. He played a major part forging three labor agreements and arriving at several broadcasting contracts.

He’s also a big fan of the game, whose benefits he describes as far-reaching: “Basketball can change people’s lives. Certain values inherent in the game—discipline, teamwork, respect, and selflessness—assist those who play both on and off the court—and playing basketball at any level has the added benefit of aiding in good health and fitness.”

Before joining the NBA, Silver clerked for District Court Judge Kimba Wood and worked at Cravath Swain & Moore. He has said that the Law School provided the foundation for the successes he has enjoyed: “The Law School was a life-changing experience for me. I learned a way of thinking, a way of approaching problems, that has served me well not just in the practice of law but in my approach to business, in my approach to leadership. It’s something that has become part of my DNA, which I took with me from the Law School and have taken with me everywhere I go.” He also had a rewarding experience working at the Mandel Legal Aid Clinic.

His current gift is just one way that he gives back to the Law School—he led last year’s annual fund campaign, and he serves on the Visiting Committee. “I think it’s critical that the alumni continue to support this place because it’s so special,” he says. “It’s unique; it’s different than almost every other law school out there. It’s the best law school in the country, if not in the entire world. I chose to make an unrestricted gift because I thought the dean of the Law School was in the best position to know where my contribution could be most impactful.”

Bloomberg Businessweek described Silver as “ego-free … with an innate ability to bridge divides and settle complex disagreements.” Michael Alter, a 1987 graduate of the Law School who owns the Chicago WNBA team, has said, “What Adam’s great at doing is a win-win deal. … He’s a relationship guy. He understands and values long-term relationships.” “He is probably always going to be the nicest person in the room,” Chicago Bulls president and chief operating officer Michael Reinsdorf has said. “He’s obviously one of the great guys in sports.”

Silver himself states his mission succinctly. “The game of basketball is my priority,” he says. “My job is to listen to our teams, players, and fans and work with them to grow the sport on a global basis.”
In Memoriam

1942
Donald Ridge
April 7, 2013
Ridge, 94, of Sarasota, Florida, served as a lieutenant in the U.S. infantry after law school. He graduated from the College in 1940. The Chicago native was later assigned, after being wounded, to be a commandant of the prisoner of war camp in England.

1949
Harry E. Groves
August 24, 2013
Groves, 91, served as president of Central State University in Wilberforce, Ohio, and as dean of three law schools: Texas Southern University, North Carolina Central University, and the University of Singapore. He was a visiting professor at numerous law schools and completed his legal teaching career as the Henry L. Brandeis Professor of Law at the University of North Carolina–Chapel Hill. Groves wrote five books on the constitution of Malaysia, and he received a bevy of honors and awards. He graduated cum laude from the University of Colorado and received an LLM from Harvard University. During the Korean War, Groves served as a second lieutenant with the Judge Advocate General’s Corps in the 82nd Airborne Division.

1950
Jerome W. Sandweiss
July 16, 2013
Sandweiss, 88, who was also a graduate of the College, practiced law for 50 years in St. Louis and Clayton, Missouri, representing Temple Israel in its successful argument before the Missouri Supreme Court for the right to build a new home in Creve Coeur, Missouri. He served for 36 years on the board of the Sigma-Aldrich Corporation, and he logged terms on the boards of the University City Public Library, United Way, Jewish Community Relations Council, and St. Louis Jewish Light, serving a term as president of the Jewish Family and Children’s Service. Early in his adult life, Sandweiss joined the Army Counterintelligence Corps as an interrogator at Sugamo Prison in postwar Tokyo. He also taught Sunday school at Temple Emanuel, citizenship courses for the International Institute, and philosophy at Washington University.

1961
James R. Faulstich
September 22, 2013
Faulstich, 79, spent two decades as president and CEO of the Federal Home Loan Bank of Seattle, where he led the establishment of a national affordable housing program that, since 1990, has invested $4.6 billion to support more than 776,000 housing units. He began his career in Oregon state government, serving as legislative counsel, insurance commissioner, and assistant to Governor Tom McCall. After graduating from York High School in Elmhurst, Faulstich served in the U.S. Army for three years. In retirement, he served on boards and committees of such organizations as Social Compact, Greater Seattle Chamber of Commerce, Washington Housing Partnership, Seattle Center Foundation, Seattle Opera, Seattle Foundation, Higher Education Coordinating Board, Downtown Seattle Association, the Rainier Club, and the Rotary Club. Faulstich established a scholarship fund for low-income students seeking opportunities in higher education, and he pursued his lifelong passion for the arts as a Seattle Opera Board Trustee and an active fundraiser in the construction of McCaw Hall, home to both the Seattle Opera and Pacific Northwest Ballet.

1963
Burton E. Glazov
November 13, 2013
An avid skier and lifelong Chicagoan, Glazov, 75, enjoyed a successful and long career as a senior executive for JMB Realty before opening his own law practice. He was an incredible supporter and volunteer for the Law School, having served on the Visiting Committee and as a cochair for many of his reunions. Glazov and his family supported many organizations, including the Jewish Federation and Special Olympics.

1965
Douglas D. McBroom
November 16, 2013
McBroom, 73, who was also a graduate of the College, spent nearly a decade as an elected judge in King County (Washington) Superior Court and a quarter century as a partner with the firm of Schroeter, Goldmark & Bender. He began his career teaching officers in Pittsburgh to comply with newly written civil rights laws before moving to the U.S. Attorney’s office in the Western District of Washington. There, he and his brother, Dick, prosecuted government corruption and organized crime. After his brother’s death, he became the chief criminal prosecutor for Pierce County, Washington, where he again fought white-collar crime and corruption.
1967
Keith E. Eastin
January 3, 2014
Eastin, 73, of Arlington, Virginia, was the vice president, strategic planning, for the Louis Berger Group at the time of his death. His career was spent in both the public and private sectors. He spent years as a partner at several law firms, most recently Hopkins & Sutter in Washington, DC. His final presidential appointment was to Assistant Secretary of the Army, Installations and Environment, in which he oversaw the management of facilities programs at army installations worldwide. He enjoyed motorcycles, artwork, and his friends and family.

1969
William H. Robinson
October 10, 2013
Robinson, 68, died in Stroudsburg, Pennsylvania, where he lived with his family from 1973 on. Robinson was a trial lawyer who spent time in public and private practice and opened his own firm in 1998. He enjoyed volunteering in local community sports, particularly at local basketball tournaments. He was an avid reader, historian, and traveler.

1970
Paul H. Stepan
August 11, 2013
Stepan, 70, a native of Winnetka, served as the first finance chairman for Richard M. Daley during his elections as Cook County state’s attorney and then mayor of Chicago. Stepan also mentored current mayor Rahm Emanuel and helped lifelong friend Dick Devine rise to become state’s attorney. Stepan joined the March on Washington on August 28, 1963, to hear Martin Luther King deliver his “I Have a Dream” speech, and his commitment to civil rights and social justice spurred his interest in politics. Stepan practiced corporate law as a partner at Mayer, Brown & Platt and started his own development firm, which created Harry Caray’s and Prairie restaurants in Chicago. He also spent 29 years on the board of directors of the Stepan Company, where his brother Quinn was CEO.

1974
James D. Zalewa
November 19, 2013
Zalewa, 66, a native and longtime resident of Chicago, died in Fort Lauderdale, Florida. He spent his career as a patent, copyright, and trademarks lawyer and spent nearly two decades at Leydig, Voit, & Mayer, Ltd., before his retirement.

1981
Steven Francis Brockhage
October 26, 2013
Brockhage, 57, of Oakland, California, worked as a partner at Smith & Brockhage in Pleasant Hill, California, for more than a decade. Born at Sculthorpe Air Force Base in the United Kingdom, he attended high school and college in California.

1988
Ari Shlomo Zymelman
September 15, 2013
Zymelman, 50, of Chevy Chase, Maryland, was a partner at Washington, DC–based Williams & Connolly who won court rulings in recent years on behalf of defense contractors accused of abuse and torture during the war in Iraq. A specialist in business litigation, particularly focused on technology and government contracting, Zymelman spent nearly a decade as lead counsel for Titan Corporation, later purchased by L-3 Services, which provided civilian interpreters for the war effort. He defended Titan and L-3 against claims by Iraqi detainees that the companies’ employees were complicit in torture and other illegal acts at detention facilities including Abu Ghraib. In addition to his legal career, Zymelman spent time exploring his Jewish faith as a member of five synagogues: Ohr Kodesh in Chevy Chase; Adas Israel, Kesher Israel, and Ohev Sholom, all in Washington; and Beth Israel in Owings Mills, Maryland.
Mark Mamolen, 1946-2013

Mark Claster Mamolen, ’77, passed away on December 25, 2013. He was a dedicated alumnus and a valued advisor and friend to many Law School deans. In 2003, he was named a life member of the Visiting Committee—one of just four persons who have received that honor.

Dean Michael Schill observes, “Mark Mamolen loved the Law School and was proud of how it had changed his life. I regularly sought his counsel and always looked forward to our meetings. He was an amazingly engaged alumnus—a great ambassador who made innumerable vital contributions—and he was also just a wonderful person to spend time with and share ideas with.”

Mr. Mamolen came to the Law School after earning an MBA from George Washington University. A year after graduating from the Law School, he joined Pritzker & Pritzker as the principal nonfamily financial advisor to Jay Arthur Pritzker. In that position, he underwrote investments in companies that included TransUnion Corporation and TicketMaster.

In 1995 he created the private equity investment company Carl Street Partners, which acquired stakes in underperforming manufacturing and service companies. He was a principal in the buyouts of a number of businesses, including Bendix Engine Products, which is now the largest aircraft engine ignition company in the world, and Deflecta-Shield, which is now one of the world’s largest aftermarket light-truck accessory manufacturers. A major investor in the firm Intellectual Property Development since 1997, he had served on its board of advisors since 2001.

Geoffrey Stone remembers Mr. Mamolen as “a quirky, curious, and somewhat offbeat person who always had a novel and interesting perspective,” and Saul Levmore recalls that he was “always willing to learn and see the world a little differently.” His wide-ranging curiosity led Mr. Mamolen to develop a deep interest in the Chicago artist Edgar Miller after moving into an Old Town building whose interior spaces Miller had created. He eventually purchased that building as well as other properties that Miller had worked on; he helped underwrite the publication of the book Edgar Miller and the Handmade Home; and he befriended Miller and provided him with personal and financial support after the artist had fallen on hard times.

His support for educational institutions was extensive, including membership on the Dean’s International Council at the Harris School of Public Policy Studies of the University of Chicago and service on the national advisory board of what is now the Hutchins Center for African and African American Research at Harvard University. He provided funding for the distribution of The Henry Louis Gates, Jr. Reader to public high schools in underserved areas around the country.

He supported the Law School with gifts in virtually every year after he graduated; he was active on Reunion Committees and hosted Reunion gatherings at his home; and he served twice on the Visiting Committee before his lifetime appointment. Saul Levmore notes that during his tenure as dean Mr. Mamolen was “always—and I do mean always—supportive when our goal involved improving the student experience.”

Mr. Mamolen was not only a source of wise counsel, he was an enjoyable companion with an exuberantly joyful spirit. Richard Epstein remembers him as “deliciously irreverent and a great storyteller.” Saul Levmore recalls, “Mark was great fun to be around.” “He was a great person to know,” Geoffrey Stone says.

A memorial service for Mr. Mamolen was held at the Law School in February. “Mark was one of a kind,” Dean Schill reflects. “He was smart, funny, inquisitive, and generous. We will all miss him tremendously.”
John W. Rogers Sr., 1918-2014

A member of the legendary Tuskegee Airmen during World War II, John W. Rogers Sr., ’48, flew 120 successful combat missions across Europe, earning a reputation among his peers as “the best dive-bomber pilot in the business.” He and his comrades later won the Congressional Gold Medal for their valor.

In the 1940s, when few African-Americans attended law schools due to racial discrimination, Rogers again was a trailblazer, graduating from the University of Chicago Law School.

Rogers, a Hyde Park resident, died January 21, 2014, at the University of Chicago Medical Center. He was 95.

“The legacy of John Rogers Sr. is essential to the contributions that the entire Rogers family have made to the University of Chicago community,” said University of Chicago President Robert J. Zimmer. “John and his family members were pioneers in many facets of their lives, and they made it possible for others to build on their successes. John’s historic achievements and his devotion to service will serve as a lasting inspiration at the University and across the nation.”

A native of Knoxville, Tennessee, Rogers was born on September 3, 1918, and moved in with his uncle in Chicago at the age of 12, after both of his parents passed away. From a young age, Rogers dreamed of flying planes and attended the Civilian Pilot Training Program on the South Side of Chicago. He then joined the US Air Force, and in 1941 became part of the famed 99th Pursuit Squadron of the Tuskegee Airmen—the first squadron of African-American pilots in the US military.

In later years, Rogers recalled that he and his comrades had encountered discrimination during recruitment and training because whites did not take their black colleagues seriously as combat fighters.

“Even though they [whites] let us into the military, it does not mean we were fully accepted as equal,” Rogers said in a 2012 interview. “The Tuskegee Airmen were seen [by white servicemen] as an experimental group. They [whites] wanted to see if we were any good in combat before deploying more African-Americans in the air.”

Rogers and his team members excelled. Mark Hanson, curator of the Chanute Air Museum in Rantoul, Illinois, where the 99th was first activated, said in 2012 that Rogers was regarded as a pilot who “could put a 500-pound bomb through a building’s window.”

After the war, Rogers returned to Chicago and applied to the Law School. According to John Rogers Jr., a University Trustee, his father was not admitted on his first attempt, but he showed up at the school in his captain’s uniform and eventually “argued his way in.”

On the first day of class, Rogers Sr. met his future wife, the late Jewel C. Stradford Lafontant, ’46, who later became the first African-American woman to graduate from the Law School. The couple married in 1946.

“[Rogers Sr.] always said that he learned to think at the Law School—that the Socratic method they used and the quality of the instruction and professors was world class and made him a better thinker,” said Rogers Jr.

Rogers went into private practice after graduating in 1948. He started his own law firm and subsequently worked for Earl L. Neal & Associates. In 1977, Rogers was appointed a juvenile court judge in Illinois and served on the bench for 21 years.

“John Rogers Sr. was a pathbreaker. From his service as a Tuskegee Airman to his appointment as a distinguished judge, he was a leader,” said Dean Michael Schill. “I am proud that John was a graduate of the Law School and would like to think that the education he got here helped prepare him for the great success he achieved in his long and important life.”

The Law School honored Rogers Sr. and his first wife in 2012 by naming its dean of admissions’ office for Rogers Sr. and Stradford Lafontant, who died in 1997. A plaque honoring them is on display in the Law School’s main classroom hallway.

Rogers met his second wife, Gwendolyn, AM’53, in 1968, and they were married in 2001. “He was a wonderful person, and we had a wonderful life together,” she told the Chicago Tribune.
Class Notes Section – REDACTED

for issues of privacy
Barrier Breaker Makes Opportunities for All

Last year, InsideCounsel named one of its prestigious leadership awards for Roderick (Rick) Palmore, ’77. The Roderick Palmore Pathmaker Award recognizes legal leaders who have accelerated opportunities for attorneys of color and women.

Pathmaker is the right word to describe Palmore. His own story is one of forging new paths, and his commitment to opening paths for others has resonated throughout the legal profession.

Since 2008, he has served General Mills as executive vice president, general counsel, chief compliance and risk management officer, and secretary. Before that he was at Sara Lee for twelve years, eight of them as executive vice president, general counsel, and secretary.

When he assumed the GC position at Sara Lee, Palmore became one of just eleven persons of color in a GC role at a Fortune 500 company. Ten years before that, he had become the first African American partner at Wildman, Harold, Allen & Dixon. When he was elected to Goodyear’s board of directors in 2012, African-Americans constituted roughly 6 percent of Fortune 500 board membership.

“There’s no question that my University of Chicago Law School degree has helped me break barriers,” he says. “The credential helped, but more importantly, the education I received prepared me to work at a high level in any setting.”

Not content just to enjoy his own successes, Palmore has pushed to open doors for others, too. He recalls a key moment in that process: “One day in 2004, on my way home after having exhorted a group of leaders about doing better at expanding opportunities for minorities, I asked myself, ‘Rick, what are you doing about this problem?’ ”

That led him to compose “A Call to Action—Diversity in the Legal Profession.” More than 120 chief legal officers signed on to that document, committing themselves to achieving greater equality of opportunity within their own organizations and to holding their outside counsel accountable, too: “[W]e will make decisions regarding which law firms represent our companies based in significant part on the diversity performance of the firms … . We further intend to end or limit our relationships with firms whose performance consistently evidences a lack of meaningful interest in being diverse.” A few years later, Palmore led the creation of the Leadership Council on Legal Diversity, a collaboration among general counsels and managing partners focused on developing diverse talent.

He says that he is disappointed with the progress since his call to action was issued: “While I’m happy for some things—that there is an ongoing conversation about equal opportunity in our profession and that there are many well-intentioned people trying to make a difference, for example—the results that I would like to see just aren’t there. We still have too many of the same challenges that we faced ten years ago.”

Palmore sees many reasons for the slow inclusion of people of color, women, and other underrepresented groups, including a failure to recognize the need to develop and retain legal talent. “If you’re still bringing in twenty people and then getting rid of nineteen of them, you’re spending a lot of money and wasting a lot of talent, and your competitor who retains and develops people is going to be in a much stronger position. Those issues may affect diverse talent disproportionately, but they affect everybody. A lot of firms and companies still are failing to recognize that.”

In Palmore’s own case, the commitment to developing talent began with his parents. Lacking high school degrees themselves, they were determined that their five children would have opportunities that they did not have. Each of the siblings attended college. Palmore’s own children have followed the family path: his daughter is a lawyer and his son is working toward an MBA.

He has shown a similar ability to inspire success in the workplace: five of the lawyers he has mentored have gone on to head Fortune 500 legal departments. "The day when everyone in our profession has a real chance to succeed is the day that we can set diversity aside as an issue," he says. “Right now, there’s a long way to go.”
From the Law School to the Top of the Business World

By the time he was in junior high school, Jeffrey J. Keenan, ’83, knew that he wanted a career in business. Within a few years, he determined that the University of Chicago would be the best place for him to prepare for that career. He earned an undergraduate degree in economics from the College and then an MBA from the Booth School along with his JD.

His judgment proved correct. His career soared—and he has given back much in return for his education. Since 2006, Keenan has been president and chief compliance officer of Roark Capital Group, an Atlanta-based private equity firm that manages more than $3 billion in equity capital. Roark’s portfolio of industry-leading companies includes Corner Bakery, FastSigns, Massage Envy, Il Fornaio, and Cinnabon.

Over the years, Keenan has developed expertise in the field of environmental services, which is also his professional passion. He heads Roark’s environmental services team, which has made major investments in three waste-management-related companies and has acquired more than 25 additional environmental-services companies. A few years ago, when $100 million investments in companies such as Twitter and Facebook were making big news, Roark invested that amount in WastePro, a company that collects, disposes of, and recycles solid waste.

“I love the garbage business,” Keenan says. “It has steady growth, it’s highly predictable, and it’s not exposed to technological obsolescence.”

Before joining Roark, he enjoyed successful tenures at Lehman Brothers and then as general partner and managing director at several large private equity funds. Then, in 1996, he cofounded a small Texas-based solid-waste company, IESI. Through strong organic growth plus more than 160 acquisitions, multiple equity and debt financings, and a large high-yield offering, he helped build IESI into what is now the third-largest solid-waste-management firm in North America. In 2005, as IESI’s chairman, he oversaw the sale of the company for more than a billion dollars.

Keenan, who has served as a director of more than 25 private and publicly traded companies, says that his Law School education has been a major factor in his successes: “I focused on securities, tax, and bankruptcy law, all of which have had many practical applications in the work I do. I also became a pretty good writer, which has helped immensely, and I developed other kinds of skills, such as reading and editing contracts, that have allowed me to be closely engaged in transactions. Beyond all that, there’s the Law School’s unique analytical training, which has helped me quickly identify the things that really matter in any situation and combine elements together in new ways for a better outcome.”

There’s another reason he’s grateful to the University of Chicago—he met his wife, Claudia Magat Keenan, while they were both undergraduates, and they married while he was at the Law School. One of their sons recently graduated from Yale Law School, and the other is working in the private equity business as he applies to business schools.

He has given back unstintingly to the Law School, serving on the Visiting Committee, serving on Reunion Committees, and recruiting and mentoring students. Last year he was a member of the advisory team that helped configure the Law School’s expansive new undertaking, the Doctoroff Business Leadership Program.

“I was honored to be invited to serve on the dean’s advisory council with so many outstanding business leaders,” he says, “and I’m delighted that the Law School will now offer this powerful program to prepare students to create and run businesses, as well as to advise top business executives. This great law school, which I’m so proud to be associated with, just keeps finding ways to get better and better.”

see (and add to) by Debra Fagan (Denver). See https://www.facebook.com/groups/144852959014880/.

Greetings to all from Dorothea Dickerman (Washington, DC), Patricia McMillen (Oak Park, Illinois), Bill Garcia (Washington, DC), Sue (Donnelly) Willenborg (Chicago), as well as from Jim Brown and me here in Chicago. Do visit us again soon!

1984

SEE YOU APRIL 25-27, 2014 AT OUR 30TH REUNION!
CLASS CORRESPONDENT
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I’ll start by wishing everyone a happy and healthy New Year and by thanking all of you that came through with a lot of great and interesting news. Also, special thanks to Cliff Petersen, our esteemed original class correspondent, for graciously covering for me in the last issue to allow me to devote more of my time to my first foray into elected politics.

As you may recall, I decided to run for councilman in the town of North Castle (which is composed of the three hamlets of Armonk, Banksyville, and North White Plains) in Westchester County, New York, because I was deeply concerned that town politics had descended into unacceptably low and nasty levels for what is a really nice town that I will have called home for 25 years come March 4. By way of background, the town board consists of one supervisor with a two-year term and four councilmen with staggered four-year terms. Thus, every two years an election is held for the supervisor and two councilmen.

The whole process was a wonderful and enriching experience for me because I got to meet and work with a lot of great people during the campaign and because I got to learn more about my town and
Bringing the Family Passion for the Environment into the Boardroom

Katherine (Kate) Adams, ’90, is senior vice president and general counsel of Honeywell, the broadly diversified global Fortune 100 company. Last year, The Legal 500 recognized her as one of the most powerful corporate legal advisers in the United States.

Adams has been at Honeywell for eleven years, five of them in her current position. Before joining Honeywell, she was with Sidley Austin in New York for a decade as an associate and partner. She went to Sidley after having clerked for Justice Sandra Day O’Connor. Before that she was a trial attorney in the US Department of Justice and clerked for then-Chief Judge Stephen Breyer on the First Circuit Court of Appeals.

With a staff of roughly 1,000 people (about 250 of whom are lawyers), Adams manages Honeywell’s global legal strategy and its compliance, global security, and government relations activities. She is also accountable for the company’s diversity and environmental sustainability programs—two areas of particular significance to her. Her parents founded the Natural Resources Defense Council in 1970 and led it for many years. Adams is proud of Honeywell’s contemporary environmental record and the fact that a large number of its products contribute to sustainability.

“I have never experienced any conflict at Honeywell with the environmental values I grew up with,” she says. “Private enterprise is the engine of change in our society; its capacity for fast, powerful, and lasting influence is immense, and Honeywell has in many respects led the way in environmental responsibility within its sectors.”

Adams views her commitment to diversity as a way of giving back: “So many people have helped me find opportunities and grow from them; starting with Paul Bator and Larry Kramer at the Law School. Without them I would not have gained my clerkship with Judge Breyer. Advancing diversity is not just the right thing to do, and it’s not just important for Honeywell’s immediate and long-term success, it’s a way for me to honor some of what has helped me in my career.”

Adams serves on the steering committee of the Honeywell Women’s Council, is an active member of the Leadership Council on Legal Diversity, and has sent many Honeywell lawyers through the LCLD fellowship program. She also tracks the diversity performance of outside counsel and bases selection and retention decisions on that performance. In addition, she initiated a Honeywell program in which diverse attorneys from outside firms work within her organization.

Adams reports to Honeywell’s CEO David Cote, who last year was named by Barron’s as one of the world’s best CEOs and by Chief Executive magazine as its CEO of the year. Her training at the Law School prepared her to contribute on the business side as well. She says, “When a great faculty like Chicago’s empties your mind of what you thought you knew—sometimes a bit painfully, but always valuably—and then teaches you how to dissect problems, find their component parts, and rearrange those parts in a better way, you’re not just learning how to be a top-notch lawyer, you’re learning how to think incisively about any problem, anywhere. Honeywell’s leadership has welcomed the application of that skillset to business challenges and opportunities. I have tried as general counsel to be sure that lawyers’ problem-solving capabilities are integrated into the business, not siloed off. I think that’s been beneficial for everyone.”

Adams has taught environmental law at Columbia and New York University. She is a director of the Institute for Legal Reform and a trustee of the Geraldine R. Dodge Foundation. She lives in Princeton with her husband of 20 years, Duke Wiser; their son Woods; and their daughter Harriet. “Great organizations make it possible for their employees to have full and rewarding lives, at work and outside it,” Adams says. “I have been strongly supported in achieving that goal at Sidley and at Honeywell. It can be done—and we are committed at Honeywell to continuing to help people do it.”

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CLASS CORRESPONDENT
Nancy Rodkin Rotering
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Happy spring! Thanks to everyone who sent in news.

Marianne Wilson Culver writes that the Culver family is “all well here in Miller Beach, [Indiana]. The house has weathered the extreme cold extremely well. We’ve been sitting around the fire each evening, playing board games, and generally enjoying ourselves.

I’m teaching seventh- and eighth-grade science at St. John the Baptist Catholic School in Whiting, Indiana. To my homeroom, I also teach literature, religion, art and computers. It makes for a full day, but it’s everything I wanted to be doing, and I love every day in the classroom. I’ve also been singing with the St. James Episcopal Cathedral Choir. That has been a tremendous amount of fun and an even better education. Leland is in sixth grade at the Lab School. As far as ambition goes, he wavers between writer, painter, and game designer. He’d like to create the
White House Veteran Makes Her Mark in Private Practice

Before Susan Davies, ’91, joined the Washington, DC, office of Kirkland & Ellis in 2011, she was deputy White House counsel, responsible for judicial selection. In addition to vetting potential judicial nominees and making recommendations to President Obama, she managed the Supreme Court confirmation processes of Sonia Sotomayor and Elena Kagan. She was also considered the resident expert on intellectual property law in the counsel’s office, which she joined at the beginning of the president’s first term.

Her background qualified her well for both of her White House roles. Right out of law school, she clerked for Stephen Breyer when he was a Court of Appeals judge, and later she clerked for Justice Anthony Kennedy. President Clinton brought her into his White House in 1994, as special counsel for judicial selection, where among other things she helped prepare Judge Breyer to become confirmed as Justice Breyer. On the intellectual property front, she worked on the Microsoft antitrust case in an early Justice Department job and later served for eight years at the Senate Judiciary Committee, first as chief intellectual property counsel and then as general counsel. She contributed extensively to the drafting of the America Invents Act, which was the first major restructuring of patent law in more than fifty years, and she worked on many copyright law issues as well.

In addition to her partnership responsibilities at Kirkland & Ellis, where she focuses primarily on intellectual property, antitrust, and government investigation issues, she began teaching a required first-year course, Legislation and Regulation, at Harvard Law School in 2012, and added a seminar on statutory interpretation to her teaching duties this year. “People often think that with a career like mine, teaching must have been on my agenda,” she says, “but it hadn’t been a goal for me because I have a lifelong, sometimes crippling, fear of public speaking. It’s getting better for me—I told a faculty colleague at the beginning of my first term that my only aspiration was not to die, and I’m not as worried about that now as I was then—but it’s still a challenge.”

She’s also actively pursuing a substantial pro bono caseload at Kirkland & Ellis, directing her attention principally to cases that involve voting rights, and she continues her involvement as a contributing editor of The Green Bag, the law journal cofounded and edited by her brother, Ross Davies, ’97.

Her enthusiasm for the education she received at the Law School is unshakable. “When I was considering law schools, I was strongly attracted to Chicago for its rigor,” she says. “It seemed like an intense place: no fluff, all muscle and bone. When I got there, it was all that—and so much more. You might choose an institution, but what you get are individuals, and the Law School’s faculty was made up of individuals who were brilliant and who taught brilliantly, and who also cared and cared deeply.”

“During my first quarter, I was convinced that I wasn’t going to be able to cut it,” she recalls. “I was trying with all my might, but getting nowhere. I went to see Cass Sunstein, all sniffles and hiccups. I don’t remember specifically what he said—all I know is that he calmed me down, reassured me, and extracted a promise from me to stick it out until the new year. I doubt that there’s anywhere else where this would have happened. I owe my career—my professional self, really—to the Law School.”

Her personal self resides happily in DC with her husband, John Van Voorhis, who teaches junior kindergarten in Washington’s Anacostia district and whom she describes as “awesome and heroic,” and their two children, Rachel and Richard, who she describes as “hilarious and wonderful.” “Life is grand,” she says. “Thank you, Chicago.”

Here’s a look at some of the standout achievements of 2014 from the Chicago Law School. If Democrats are going to show how they would govern if given control, Minnesota stands out as one of the poster children.”

“Paul Thissen and Tom Bakk. Thissen, the speaker of the Minnesota state House, and Bakk, the Senate majority leader, have taken advantage of their majorities to push Democratic-friendly legislation ranging from a state-level version of the Dream Act to no-fault absentee voting and big investments in public universities.

Also, congratulations to Dale Carpenter, whose book Flagrant Conduct: The Story of Lawrence v. Texas: How a Bedroom Arrest Decriminalized Gay Americans has continued to garner rave reviews. It was named a 2012 New York Times Notable Book and received the following review from The Law School’s Geoffrey R. Stone, ’71:

“Dale Carpenter’s Flagrant Conduct does for Lawrence v. Texas what Richard Kluger’s Simple Justice and Anthony Lewis’s Gideon’s Trumpet did for Brown v. Board of Education and Gideon v. Wainwright. It tells the story of a profoundly dramatic and important Supreme Court decision in a way that brings to life the stakes, the participants, the justices, and the drama of the constitutional controversy. It is a landmark achievement.”

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SEE YOU APRIL 25-27, 2014 AT OUR 20TH REUNION!

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Salutations Class of ’94! Be sure to mark your calendars now for the 20th Law School Reunion, April 25–27, 2014! Thank
Reunion Weekend Events April 24-27, 2014

Thursday, April 24, 2014
6:00–9:00 p.m. Annual Dean’s Circle Dinner for Patron and Benefactor Members by invitation only

Friday, April 25, 2014
12:00–2:00 p.m. Loop Luncheon featuring Professor R. H. Helmholz
The Chicago Cultural Center | 77 East Randolph Street
2:30–4:00 p.m. Gallery Tour of the Modern Wing of the Art Institute of Chicago
159 East Monroe Street
4:30–5:30 p.m. Tour of the Chicago Cultural Center
77 East Randolph Street
4:30–6:00 p.m. Alumni Clerkship Reception by invitation only
The Gage | 24 South Michigan Avenue
6:00–8:00 p.m. All-Alumni Wine Mess
The Chicago Cultural Center | 78 East Washington Street
7:00 p.m. BLSA Alumni Recognition Dinner by invitation only
Petterino’s | 150 North Dearborn
8:30 p.m. LLM Alumni Dinner
The Berghoff | 17 West Adams Street

Saturday, April 26, 2014
8:30 a.m. & 8:45 a.m. Shuttles to the Law School depart from the Gleacher Center
450 North Cityfront Plaza Drive
9:00–10:00 a.m. Continental Breakfast at the Law School
10:00–11:00 a.m. Town Hall Meeting with Dean Michael Schill
11:00–11:15 a.m. Coffee Break
11:15 a.m.–12:15 p.m. A Discussion with Diane Wood, Frank Easterbrook, ’73, and Richard Posner
Moderated by Larry Kramer, ’84
12:30–2:00 p.m. Picnic Lunch
2:00–3:00 p.m. Distinguished Alumni Panel Discussion
3:00–4:00 p.m. Bus Tour of Hyde Park
2:30, 3:00 & 4:00 p.m. Shuttles to the Gleacher Center depart from the Law School
5:30–6:30 p.m. Reunion Committee Reception by invitation only
Joe’s Seafood, Prime Steak & Stone Crab | 60 East Grand Avenue
7:00 p.m. Reunion Class Dinners

Sunday, April 27, 2014
10:00 a.m.–Noon All-Alumni Brunch
The Ritz-Carlton Hotel | 160 East Pearson Street
REUNION WEEKEND APRIL 25 - 27, 2014