Greetings.

This is [-- as Dean Lynch noted --] the second time that the University of Miami has had occasion to celebrate the award of the Hausler Chair. We are all happy to be here today. We recognize – we honor – Bernard Oxman. But we also remember – and honor also – Richard Hausler and John Ely, the first holder of Hausler's Chair. Before I introduce Professor Oxman, therefore, I would like to reintroduce Professors Hausler and Ely – say something about the distinctive character of their accomplishments.

Fleeing Minnesota in 1948, Richard Hausler joined the law school faculty. Over the course of the next half century or so, he became and remained a central figure – for his many, many students and for several generations of colleagues. It was not the length of his tenure, however, that prompted so many people to contribute to the endowment supporting the chair named for him. Nor was it his underlying decency, his faith, his concerns for others. Richard Hausler was – as they used to say in Massachusetts – "wicked smart." He constructed an elaborate swirl of theatrical and often surreal humor, put it to work in classrooms and in the collegial politics of the faculty – and then used it as a backdrop, a contrast or foil, to focus and intensify extraordinary bursts of high seriousness, deep moral responsibility, and penetrating insight. He was subversive, unsettling -- Puck -- in service of commitments he took to be fundamental. It was an altogether memorable, altogether remarkable juxtaposition.

John Hart Ely became the first occupant of the Hausler Chair in 1996. Prominent even as a law student in Anthony Lewis's classic Gideon's Trumpet, Ely progressed – seemingly effortlessly – from working as Earl Warren's law clerk to tenure at Yale, from Yale to Harvard, from Harvard to Stanford, where he served as dean. On to Miami: John Ely and Richard Hausler quickly became friends – as humorists dangerously reinforcing each other. Ely moved into a

quintessential Miami house – with a view in the distance of Alonzo Mourning. He was a student favorite, a welcoming and sympathetic counselor to younger faculty, a central presence. And then he was gone: John Ely died in 2003.

But, of course, this is not all there is to remember. Ely's work – the sequence of articles he wrote at Yale and perhaps especially Harvard, the two books, and also the criticisms of election redistricting law that he wrote at Stanford and here as well – taken together count as one of the truly important bodies of writing about American constitutional law as it emerged in the second half of the twentieth century. *Democracy and Distrust*, published in 1980, remains an international classic. John Ely – at about the same time as John Rawls and a very few others – articulated distinctively American contributions to the theory of just political institutions – contributions drawn upon and put to work world-wide ever since. Ely's starting point is always worth recalling: The ideals that governments claim to acknowledge and promote are not only justifications for government action, but also criticisms of government actions false to those ideals. A properly constructed constitution, therefore, must be one which finds ways to articulate and enforce, as a matter of more or less routine, criticisms of the government the constitution establishes that are grounded in the constitution's own premises and ideals – *Democracy and Distrust*.

Bernard Oxman, it should be clear, finds himself in fast company.

At this point, I need to declare an interest. Professor Oxman and I joined the University of Miami School of Law faculty at the same time, just recently in 1977. We have been friends, sometimes collaborators, and colleagues ever since. When Kay Seibert and I were married in 1984, Bernie Oxman was best man. Kay and I think the world of him (that's an understatement) .

Happily, however, res ipsa loquitur: the facts speak for themselves.

Bernard Oxman, after graduating from Columia College and Columbia Law School, worked for the United States Navy and the Legal Advisor's office in the State Department. He quickly became an important participant in the negotiating teams representing the United States in the many years effort to put together the codifications, reforms, and institutional structures commonly called the Law of the Sea Treaty. This work continued after Professor Oxman joined the Law School faculty, and of course resulted in the complex and ambitious document now agreed to by all except very few governments on the planet. The Law of the Sea Treaty is a legal achievement of a very high order indeed. Professor Oxman's important role in the drafting of the treaty is acknowledged world-wide and his subsequent writings have kept him at the forefront of the field. In 2003-05 he served as a judge *ad hoc* on the International Tribunal for the Law of the Sea.

Bernard Oxman extended the reach of his work after he joined the Miami faculty. He is well-known to years of students for his courses in torts and conflicts of law. He has taught as a visiting professor at Stanford and Berkeley. In 1994, Professor Oxman offered a seminar on the idea of jurisdiction at the University of Paris – taught, of course, entirely in French. He has now begun (with Professor Lori Damrosch of Columbia Law School) a second term as Co-Editor-in-Chief of the *American Journal of International Law*, the preeminent American publication in the field. He is Vice President of the American Society of International Law, and a member of the American Law Institute and the Council on Foreign Relations. And this Fall he will sit as a judge *ad hoc* on the International Court of Justice.

A great career, obviously. But there is also this great, obvious irony. The United States is one of the very small number of governments that refuses to ratify the Law of the Sea Treaty. That may change – maybe even soon. But it is perhaps not surprising that Professor Oxman's thinking – in writing and in

conversation – reveals a distinctive preoccupation with the fragility of legal institutions. Fragile institutions, I think he thinks, are able to persist and perhaps even flourish if such institutions understand clearly their purposes and premises, insist on their importance where pertinent, and resist acknowledging concerns or commitments that, however worthy otherwise, would confuse or complicate emphatic assertion of the original organizing purposes and premises.

This proposition and John Ely's starting point interact in interesting ways, I think. But that's a matter for another occasion.

Chairs honor individuals, of course. But chairs – or rather, the ambitions and accomplishments of their occupants – reveal something important about the institutions that establish the chairs. The University of Miami and its School of Law jointly and severally honor Richard Hausler, John Ely, and Bernard Oxman – assert as standards by which to be judged the ambitions and accomplishments of Professors Hausler, Ely, and Oxman – and also, I am happy to say, the ambitions and accomplishments of some number of their colleagues.

Ladies and gentlemen: Bernard Oxman.