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Law Quadrangle notes

THE UNIVERSITY OF MICHIGAN
LAW SCHOOL

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LAW QUADRANGLE NOTES



**Why Continental Jurists Should Consult
Their Transatlantic Colleagues**

Lifting the Weight of the Wait

Uncoupling the Law of Takings

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- March 7 International Law Workshop (ILW): "What is Torture?:
One Working Human Rights Lawyer's Perspective,"
Karima Bennoune, legal adviser, Amnesty International, London
- March 14 ILW: Diane Wood, circuit judge, Court of Appeals for the
Seventh Circuit
- March 17-20 Symposium: "Identities in the Year 2000 and Beyond,"
Michigan Journal of Race and Law
- March 21 ILW: "Diversity and Self-Determination in International Law,"
Karen Knop, associate professor, Faculty of Law,
University of Toronto
- March 24 Symposium: "A Decade of Indian Law — Rewriting Justice
Marshall's Vision of Indian Country," Native American Law
Students Association and *Michigan Journal of Race and Law*
- March 30 ILW (co-sponsored with Law and Economics Workshop):
"Self-Interest and Altruism in the Deterrence of Transnational
Bribery," Kevin Davis, assistant professor, Faculty of Law,
University of Toronto
- April 1 Butch Carpenter Dinner
- April 4 ILW: "The Constitutional Limits of the EU," Grainne De Burca,
professor of European law, European University Institute, Florence
- April 13 Campbell Moot Court Final Competition
- May 13 Senior Day
- May 20-25 Clarence Darrow Death Penalty Defense College
- June 1-2 Emeritus Reunion Weekend
- June 15 Arizona State Bar alumni reception
- June 22-24 Alumni Reunion Europe 2000, Heidelberg, Germany
- July 6-12 ABA Meeting, New York
- July 15-20 ABA Meeting, London
- September 8-10 Reunions of classes of 1975, '80, '85, '90, '95
- October 13-15 Reunions of classes of 1950, '55, '60, '65, '70
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Cover:

*Sunrise lights the
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— *Michael A. Heller and James E. Krier*

HR1 ANNUAL HONOR ROLL OF DONORS

This year, I have used these messages to discuss the great lawyer's capacity for patience. As we have seen, the word takes on multiple colorations, and many of them shape a mode of lawyering that we deem admirable.

We can learn still more about this complex quality by exploring its obverse. I am thinking here of the great lawyer's capacity for *impatience*. Sometimes the mark of a truly outstanding attorney is the ability to charge ahead decisively at a moment when the easier course would be to wait and temporize.

I do not mean the ability to be impatient *with others*. That is, of course, a talent that many lawyers both great and

**Ours is a cautious profession.
By our training, we become
exquisitely attuned to risk.**

mediocre have in abundance. Rather, I am speaking about a certain impatience with oneself.

Ours is a cautious profession. By our training, we become exquisitely attuned to risk. As we learn how to recognize the strongest arguments against any legal position, we learn more generally how to anticipate the possibility that things might not play out according to plan.

Business clients are ambivalent about this quality of ours. They want to be warned of anything that might go wrong. "No surprises." Yet they quickly grow weary of the counselor who sounds like an unrelenting prophet of doom.

In the business world, risk is a fact of life. The successful business person becomes comfortable with the need to manage risk prudently: the need to form judgments about risk magnitudes, to put



limits on the potential damage if things break badly, and to accept the fact that great opportunities are never risk-free.

Our clients expect us, as their lawyers, to understand that fact, and to accommodate our temperaments and our judgments to a company's goals and aspirations even as we recognize that danger may lie ahead. And that requires us to cultivate a degree of impatience with ourselves.

Every day the practicing lawyer must decide *when* and *how* to advise. Inside, the lawyer's sense of the right answer has begun to crystallize. It is not yet rock solid; there are a few nagging doubts. Is it time to express an opinion despite the doubts? Should the judgment be hedged? Why? To protect the client or to protect

the lawyer? Or should more time be invested in research and reflection, in an effort to get closer to "the bottom of the well"?

Law school does not teach answers to these questions. But the best lawyers share an ability to push beyond lawyerly

**Sometimes the mark of a truly
outstanding attorney is the ability
to charge ahead decisively at a
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would be to wait and temporize.**

caution and reserve, to serve their clients best. They have the intellect to recognize what they do not yet know. They are able to convey a complex sense of the limits of their knowledge, in a way that is maximally useful to their clients. And a critically impatient voice inside often insists that they need to respond quickly, before they have reached a point of complete security and serenity about what they are about to say.

My last message concluded with the observation that the many dimensions of patience call for a particular balance, the balance between being sensitive to others and preserving an authentic and enduring self. Here we see emerging the need for a different balance: between patience and impatience, impulse and hesitation. Somewhere on the continuum from inertia to rashness, lawyers and clients alike struggle to find the elusive middle ground: thoughtful but decisive action.

Reporting from the future

The “merger of equals” that created Piper Marbury Rudnick & Wolf L.L.P. in November is part of the consolidation and globalization that marks the legal profession worldwide, a partner and chief operating officer of the new law firm told a Law School audience shortly after the merger became official.

Piper & Marbury L.L.P., with principal offices in Baltimore, Washington, D.C., New York, Philadelphia, and Reston, Virginia, and Rudnick & Wolfe, of Chicago, D.C., Tampa, and Dallas, both were successful firms, but both also recognized that they must expand their resources, reach, and “surge capacity” in order to continue to meet clients’ needs, Jeffrey F. Liss, ’75, who had been chief operating officer with Piper Marbury before the merger, explained in a program sponsored by the Office of Career Services.

The movement toward larger, “one-stop shopping” law firms is convincing even previously reluctant firms to consider merging with or acquiring other firms. For example, Liss said, his new combined firm, which numbers approximately 750 lawyers, has drawn interest in merger talks from a prominent West Coast law firm that previously had been uninterested in such a possibility.

We are in the midst of the “historically largest cycle of growth and acquisition ever in the history of the planet,” Liss said. “Businesses today — and this is what we always hear from our clients — are globalizing.”

The successful law firms of the future must provide the resources to deal with multi-national activities and transactions, technological advances, intellectual property questions, and the “surges” that occur when a major client’s activities call for many lawyers with many specialties to work on an issue at one time on short notice. “It’s a breathtaking scope of services that a firm needs to provide to today’s sophisticated clients, both large and small,” Liss said.

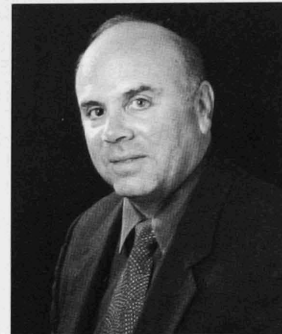
For life in the law firm, such growth can be good or bad, he continued. “It’s what you make of it. Larger size and greater resources can be impersonal, but they also can make it possible for us to do wonderful things. The right question is, how can we use the growth and the increased ‘risk capital’ that comes with it to make the law firm a better institution?”

The answer, Liss said, is to provide “an enhanced sense of professionalism” that:

- Uses a firm’s expanded resources to provide practical, helpful training.
- Draws on and shares the expertise of experienced “mentor” attorneys.
- Makes “a real commitment” to *pro bono* work.
- Combines a sense of client service with a sense of ethical independence — “We admire our clients, we emulate them in many ways, but if we ever conclude that we *are* our clients, watch out. We owe it to them as well as to ourselves to preserve our role as independent advisers.”
- Includes “a concerted effort to develop and nurture ties with all parts of the profession.” There is often too much gap, for example, between legal academics and practicing attorneys.
- Values and promotes “a balanced life” that leaves time for family, community, and other activities.

Much the same motivation fueled the decision of nine attorneys with Mack and McLean to affiliate with the Atlanta office of McGuire, Woods, Battle & Boothe L.L.P. last fall. The move boosted the number of lawyers with McGuire, Woods in Atlanta to more than 30. Mack and McLean,

PHOTO COURTESY PIPER MARBURY
RUDNICK & WOLFE L.L.P.



Jeffrey F. Liss, '75

recognized for its work in labor and employment law, counts among its clients firms like Delphi Automotive Systems, the Weyerhaeuser Company, McDonald’s Corporation, and The Boeing Company.

“The affiliation follows nationwide trends where law firms are merging to provide better service to clients whose geographic reaches are expanding,” noted an announcement of the move.

Curtis L. Mack, LL.M. ’73, managing partner of Mack and McLean, said the affiliation helps both firms. “For more efficient delivery of legal services, we thought it brought great synergy to merge our firm with McGuire Woods,” he said.

“The affiliation with an international law firm enhances our ability to provide quality legal services to clients across the country.”

McGuire Woods, which has more than 500 lawyers in six states, the District of Columbia, and Belgium, Russia, and Kazakhstan, opened its Atlanta office in 1998. Eleven attorneys from another Atlanta law firm joined McGuire Woods last summer.

A transatlantic seminar



At Oxford: two professors,
13 seminar students.

At the Law School: two students,
two faculty members, a visiting
lecturer, and a facilitator.

In action: the 3,000 miles that
separate the two groups disappear as
participants question each other and
discuss the research papers before
them. As this first-of-a-kind seminar
in “WTO and Human Rights”
unfolds, faculty and students query
each other much as they would
across a seminar table.

“This is the first of what I hope will be regular seminars on subjects of mutual interest,” begins seminar instructor Christopher McCrudden, an Affiliated Overseas Faculty member at the University of Michigan Law School and professor of human rights at Oxford University in England. McCrudden, who had taught the same rigorous seminar earlier in the fall term at Michigan, this time is speaking from a specially equipped seminar room at Oxford. He is accompanied by Oxford faculty colleague Mark Freedland, a professor of employment law, and 13 seminar students.

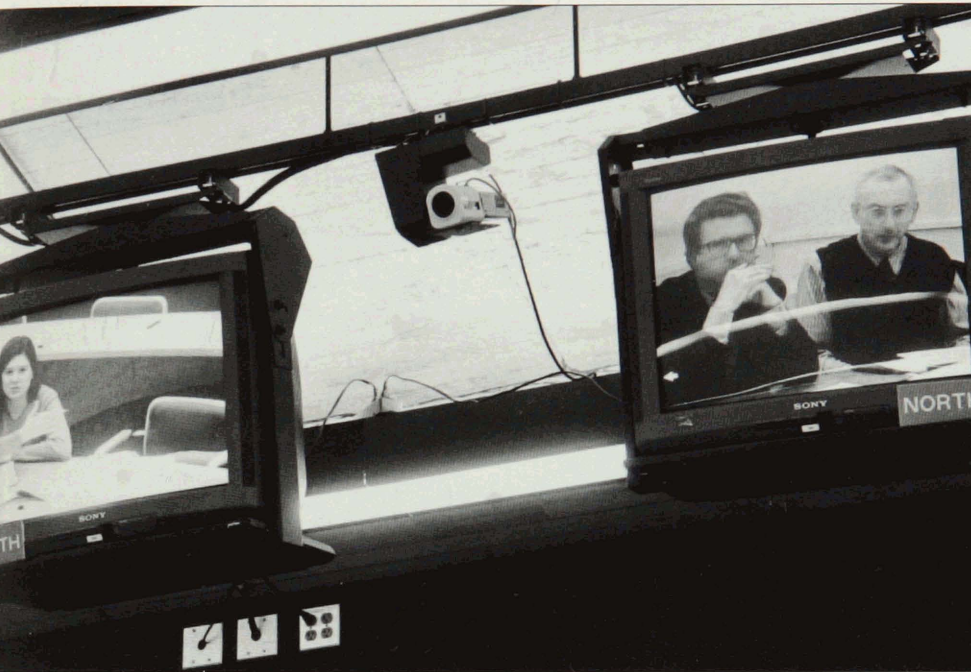
At the Law School in Ann Arbor, participants are gathered in a classroom specially equipped with cameras, four monitors, built-in desk microphones, and other equipment made possible by a gift from Chicago-based real estate magnate Sam Zell, '66. Those taking part include second-year law students Kevin Kolben and Kathy Silvey, who took the same seminar with McCrudden when he was at the Law School earlier in the fall and have presented two of the day's three papers for discussion; Professor Deborah C. Malamud, a labor law expert; Professor Robert Howse, a specialist in international trade;

and Bill Davey of the University of Illinois Law School, a former WTO legal director who spoke to Howse's class earlier in the day.

Moderator is McCrudden colleague Anne Davies, a fellow at All Souls College, Oxford, and currently a research scholar at the Law School. McCrudden and Davies are co-authors of the day's third paper, “A Perspective on Trade and Labor Rights,” forthcoming in the *Journal of International Economic Law*.

A telephone call from Ann Arbor to Oxford — a single call that activates the six telephone lines needed for the audio and visual exchange — starts things off. With only a couple of minor glitches — a slight echo of Ann Arbor speakers' voices and inadvertent freezing of Oxford's camera during the final few minutes of the two-hour seminar — all goes well. The months of preparation that went into programming computers, linking telephone lines, and testing equipment prove their mettle in this debut.

“It did exactly what I wanted, which was to enable my students in both locations to engage on some issues, and



At far left, Ann Arbor-based seminar participants sit at microphone-equipped desks in a specially equipped room in Hutchins Hall while listening to and watching Oxford University-based fellow participants on the monitor in front of them. At near left, smaller monitors at the back of the room show action in Ann Arbor and Oxford on side-by-side screens; second-year law student Kathy Silvey, on the left monitor, answers a question from Affiliated Overseas Faculty member Christopher McCrudden, a professor of human rights at Oxford University, who appears on the left side of the monitor at right. With McCrudden is Oxford University Professor of Employment Law Mark Freedland. The audio/video hookups between the two universities allow seminar participants on both side of the Atlantic to engage in discussion much as they would across a table in the same room.

Ann Arbor, meet Indianapolis

In 1997, Indiana Attorney General Jeffrey A. Modisett traveled from Indianapolis to the Law School to speak to Professor Richard Friedman's Civil Procedure class. In 1999, he remained at his office building in Indianapolis but still spoke to Friedman's Civil Procedure class — this time via special audio/video equipment in Indianapolis and similar equipment recently installed in a Hutchins Hall classroom.

Modisett had planned to come to the Law School for this presentation too, but when his schedule forced him to cancel the trip Friedman turned to the Law School's new equipment to bring the guest speaker to his class anyhow.

"It was a big success," said Friedman, who had helped advise the Law School on purchase and installation of the equipment. It was only the day before Friedman's class that the equipment had been used for the first time in an actual classroom situation — for a seminar that brought together participants in Ann Arbor with counterparts in Oxford, England. (See adjoining story.)

"I was delighted," Friedman said, "and I will do it again."

Beaming a guest speaker into a Law School classroom from his home office has many advantages and will become popular among faculty members, Friedman predicted. It's also easier to arrange and to run than a seminar with a number of participants at multiple sites. Friedman predicts that this use of the equipment — for guest speakers — may prove over time to be more frequent than seminars with participants at both sites.

"The class was extremely enthused about it," Friedman reported.

"We got a really good exchange going," Friedman said. "Lots of students participated. We all — our guest, the students, and I — found it to be an exhilarating experience."

He added: "The only problem arose when, as luck would have it, there was a fire alarm in the building in Indiana. But Modisett bravely and accurately determined that there was no danger and stayed at his desk until the end of the hour."

this they did well," McCrudden said afterward. It appeared that students enjoyed the experience and "felt quite relaxed using it," he added.

Managing the remote seminar required special preparation, according to McCrudden. "Anne [Davies] and I were very conscious that we needed as clear directions to each other as possible so that there would be as few awkward pauses and uncertainties as possible, and that everyone in the two locations could concentrate on the intellectual issues rather than the technical issues. So we drew up a fairly detailed 'script,' which we both had in front of us during the proceedings, and each knew what the other was planning to do, and what each was responsible for. It definitely needed extra planning beforehand than would be required for a 'one location' seminar, but I think it was worthwhile."

Added Davies: "The seminar produced a very constructive discussion of the students' papers and the Seattle Ministerial Meeting of the WTO, and I think everyone involved, especially Professor McCrudden, would like to record their thanks to the dean, the donor of the equipment, and the technical staff in Michigan and Oxford who made it possible."

The room that can reach 'round the world

October 5 saw the official — and lighthearted — launch of the Law School's distance learning classroom. The "distance" involved may have been short — from one room of Hutchins Hall to another — but the effects are far-reaching. (See accompanying stories, pages 4 and 5.)

Thanks to the generosity of Equity Group Investments Inc. Chairman Sam Zell, '66, whose first contribution to the Dean's Tactical Fund has provided teleconferencing capabilities for the Law School, room 116 in Hutchins Hall has been transformed into a distance learning center that can link the Law School in two-way communication with teachers and schools around the world. The new facilities were inaugurated with Zell as guest of honor and a pair of faculty members playing the "remote" role from Hutchins Hall's nearby mock jury room.

Dean Jeffrey S. Lehman, '81, controlled the state-of-the-art equipment via a touchscreen he operated from the front of the classroom. Cameras, microphones, and two 40-plus inch flat panel plasma display screens were the most visible portion of the array of teleconferencing equipment that has been installed. Participants at the Law School now may hear and talk with counterparts at single or multiple remote sites much as they would if they could be face to face in the classroom.

In addition to Zell, special guests for the demonstration included Equity Group Investments Inc. President and CEO Sheli Rosenberg and University of Michigan Executive Vice President and Chief Financial Officer Robert Kasdin. Among the faculty members taking part were Associate Dean for Academic Affairs Christina B. Whitman, '74, and Professors Edward Cooper, Richard Friedman, Douglas Kahn, Christopher McCrudden, Adam Pritchard, Mathias Reimann, LL.M. '83, and J.J. White, '62.



Equity Group Investments Inc. Chairman Sam Zell, '66, shares the humor of the program presented as the initial demonstration of teleconferencing equipment at the Law School in October. At right are Equity CEO Sheli Rosenberg and David Baum, '89, the Law School's director of student services. In the row behind them are Professors Joseph Vining, Kyle Logue, and Merritt Fox, and Research Scholar Anne Davies.

PHOTO BY BILL WOOD/UNIVERSITY PHOTO SERVICES



Eyeing Michigan's highest court — Above, law students Katie Swanson and Jordana Hodaff peruse "A Decade in Review," the traveling exhibit on the Michigan Supreme Court Historical Society's first 10 years (1988-98), on display at the Law School throughout the fall term and part of the spring term. At left, the Hon. Steven D. Pepe, '68, U.S. Magistrate Judge of the U.S. District Court, Eastern District, and Neal C. Villhauer, '85, commissioner of the State of Michigan Court of Appeals, chat with Thomas M. Cooley Professor of Law Edward H. Cooper during a special reception at the Law School in January to honor Law School graduates who work in the public sector and to call attention to the exhibit. The exhibit, which concludes its five-law-school tour this spring in Detroit, uses a wealth of photos from Historical Society holdings and text to portray historical and contemporary aspects of the court. The Michigan Supreme Court Historical Society preserves documents, records, and memorabilia relating to the court and produces publications, special events, and other projects as part of its work of education and restoration.

CLASS OF
2002

AROUND THE WORLD

Each year students come to the Law School from all corners of the United States and many of the world's countries. Office of Admissions staff members are used to seeing overseas postmarks on correspondence from students who are seeking the Law School's advanced degrees. Postmarks from mailing sites outside of the continental United States are rare among J.D. admittees, however. But there are some. Let us introduce you to several Law School students whose admission correspondence last year originated outside of the continental 48.

The Class of 2002

Its students are one of the Law School's greatest assets. Each year new enrollees continue the traditions of excellence and high achievement their predecessors have shown. And the students who began their Law School studies this past summer and fall are no exception.

"We enrolled an outstanding and diverse group of individuals in our 1999 entering class," according to Assistant Dean and Director of Admissions Erica A. Munzel, '83. "They have excelled in a wide range of extracurricular and professional activities. They reflect a broad array of intellectual temperaments."

Here is a statistical snapshot of the Class of 2002.

Total	343
Female	45 percent
Male	55 percent
Students of Color.....	24 percent
States Represented	42
Undergraduate Schools Represented	138

CLASS OF 2002



Elizabeth L. Carr

ELIZABETH L. CARR

Elizabeth L. Carr came to the Law School because it was “very strongly recommended to me by a lawyer I knew in Beijing.”

“I wanted to study at a law school with an international reputation, and was told that Michigan was highly esteemed, both domestically and in China,” she explained.

Carr, who holds dual Canadian/U.S. citizenship, spent the past year studying Mandarin in China. She was in China when she applied to the Law School, but used her Toronto address to make correspondence easier.

A graduate of Cornell University, where she majored in Chinese studies and German, she’s looking ahead to an internationally oriented career. “I very much hope to work in an international environment after law school,” she said. “Because I speak several other languages besides Mandarin (French, German, and Spanish), I’m not sure where I’ll end up.

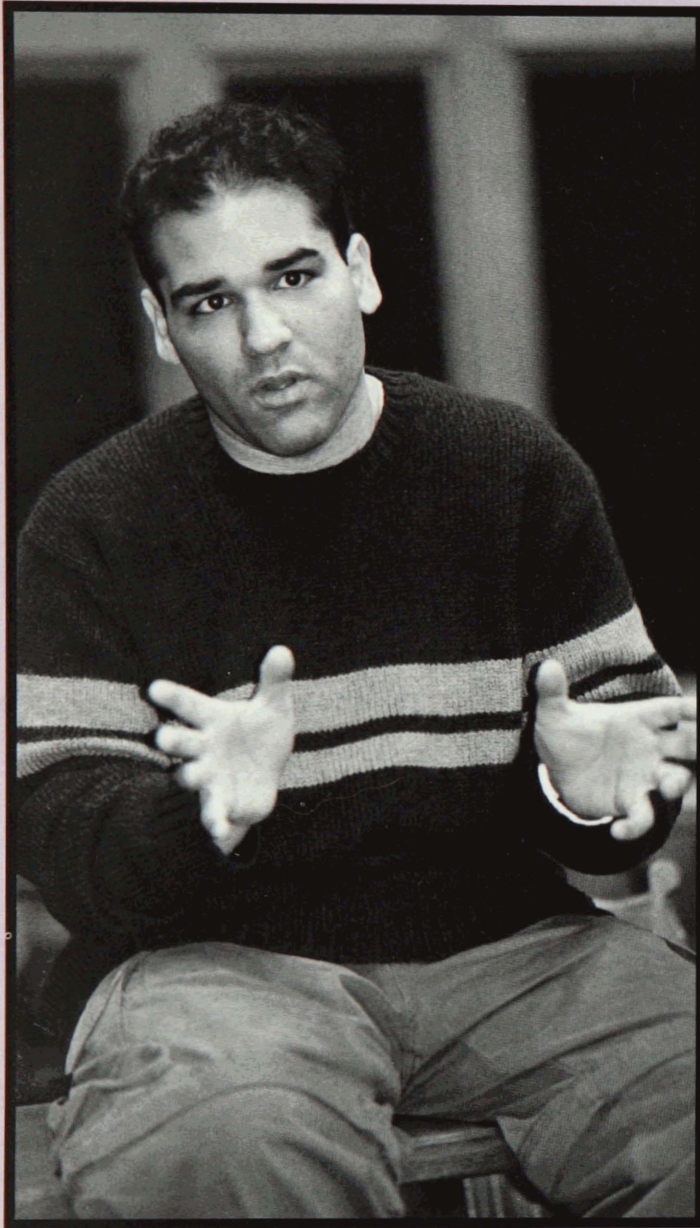
“A very high priority for me is the chance to use my language and cultural skills, and I’d like to find a field that values those skills and allows me to work in an international environment, be it law or something else. However, I plan on practicing law for at least a few years after graduation.”

Carr comes to the law naturally. “My dad’s a lawyer, and I believe we share characteristics that are important in law: we both seek intellectual challenges and pay a great deal of attention to detail. I worked in a law firm for three summers during college, and was comfortable in the environment.”

Carr has found the Law School both pleasant and exciting. “I’m thoroughly enjoying my time here so far,” she said. “It’s intellectually stimulating. I also find people very friendly.”

Carr jumped into her legal studies and life in Ann Arbor with the enthusiasm and energy that characterizes her activities. At the Law School, where the rigors of first-term legal studies are legendary, she has found time keep her language skills in shape by lunching with fellow students at the Chinese, German, and Spanish tables in the Lawyers Club dining room. She also has been working to reactivate the Volunteer Students Tutoring Association.

In addition, she’s a member of the Michigan Ballroom Dance Club and the St. Andrew’s Episcopal Church Choir, which performed Brahms’ *Requiem* in November.



Ricardo Egozcue

RICARDO EGOZCUE

You might consider Ricardo Egozcue a glutton for punishment — he's simultaneously working toward his J.D. and Ph.D. in economics — or you might consider him a young man who already has a good handle on what makes the world turn.

"Law and economics are at the heart of every single piece of legislation that passes the U.S. Congress — antitrust cases, tort law, contracts, property, securities regulation, etc.," says Egozcue. "I have always enjoyed and excelled at math and economics, but I also enjoyed working with people and communicating big ideas. Law allows me to do just that."

Egozcue grew up in Puerto Rico, earned his bachelor's degree in economics, with a minor in mechanical engineering, at M.I.T., and holds a master's in economics from the University of Michigan. A summer starter at the Law School, he also is a graduate student instructor in economics.

"Growing up in Puerto Rico definitely shaped my views and thinking," he explained. "Puerto Rico's biggest asset is that divisions by race are almost non-existent. You can find families with European and African backgrounds; each of those cultural backgrounds is celebrated and seen as a plus."

"The biggest problem is a welfare state run amuck, which has created massive unemployment, crime, and drug problems, and has convinced me that sometimes a limited government is more compassionate than a large one."

"I chose the University of Michigan Law School because I wanted to obtain both a graduate degree in economics and a J.D.," he explained. "The U-M provides an excellent education in both areas."

Law School has been exciting and stimulating, and "I love every minute of it," Egozcue said. "I am very proud of my classmates; they all bring something to the table and they certainly make my law school experience a plus." Faculty members also drew his praise because they "challenge me every single day and force us to consider different points of view."

After Law School, he said, he may stay in the Midwest. "I would like to practice corporate law in the short term, and, in the long term, give economic/political advice and have a hand in formulating economic policy at the federal level."

"My top priority is to give my future family and kids a good environment to grow up in. It seems to me that the Midwest has all the attributes I am looking for personally and professionally."



Sarah E. Heineman

SARAH E. HEINEMAN

Legal studies are “challenging and multi-faceted,” says Sarah E. Heineman, who graduated from Western Michigan University with a degree in international and comparative political science.

“The diverse body of students and professors engaged in academic study of the issues that interest and excite them create an energetic and intelligent atmosphere in which I can do my work,” Heineman said. “The students are competitive, but in a supportive way. The attitude of most is that everyone here is smart and everyone here can succeed. We each have our personal goals and the professors and students want each other to succeed.”

For herself, “I plan to work in a firm after graduation, hopefully combining international and environmental law. I am not certain where I will end up after graduation but, if I do work abroad, it will only be for a few years. I’m not a ‘lifer.’”

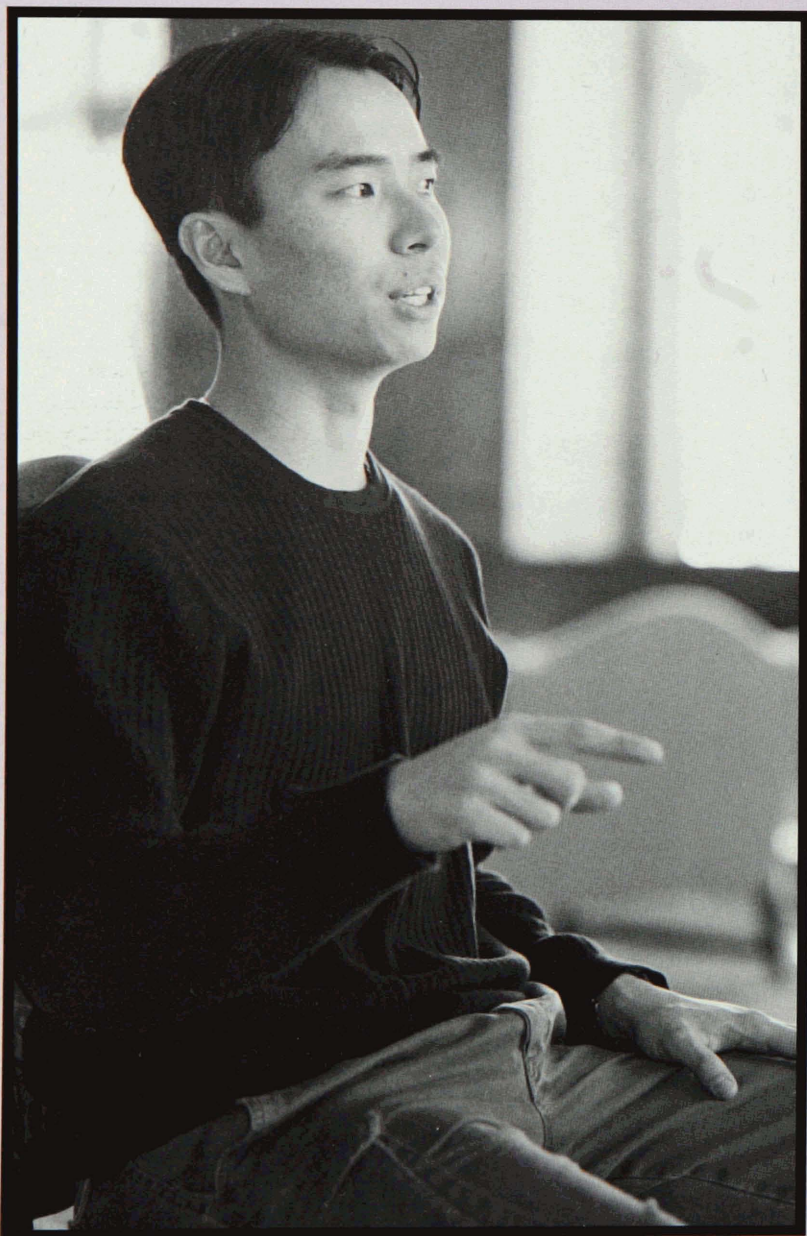
Heineman, who is from Holland, Michigan, said she decided to study law because she wanted to move beyond the opportunities that her bachelor’s degree alone afforded her. “The intellectual demands and problem-solving skills required in law interested me,” she said. “I also appreciated that it afforded me the ability to look at both international and environmental issues.”

As for choosing the University of Michigan Law School, its attraction was two-fold: “The strength of the international program, in particular, and the excellent reputation of the Law School as a whole attracted me,” she explained. “I also was familiar with Ann Arbor, and prefer this community to that of a large city such as New York, Washington, D.C., or Chicago.”

She added that she especially appreciates the convenience and camaraderie afforded by living in the Law Quad: “I think it is an excellent choice for 1Ls. The Reading Room, the library, cafeteria, lounge, and classrooms are all only a couple of minutes away, and the atmosphere is very open and friendly. Living in the Quad is a great way to move quickly into the student body.”

CLASS OF
2002

CLASS OF 2002



CHRISTOPHER PIH

Christopher Pih followed his curiosity back to Korea after earning his bachelor's degree in history and political science at Rutgers. "I'm a Korean-born immigrant, and I wanted to experience living in Korea for an extended period of time," explained Pih, who had left his native Korea when he was five. "So after graduation, I attended Yonsei University in Seoul for nine months."

It was a busy nine months: "I learned Korean and written Chinese. Also, as I had been involved competitively in tae kwon do in the United States, I trained in Korea."

"While in Korea, I also co-founded an English tutoring service that was part of Ewha Women's University in Seoul to help inner-city high school students in English."

He's busy here at the Law School, where he is a member of the Asian Pacific American Law Students Association and participates in the Family Law Project and the Asylum and Refugee Law Project.

"I chose Michigan because of its reputation," he explained. "I also wanted to experience living in an area away from the New York area, but close enough to be able to go back easily."

"I enjoy living in the Law Quad because it allows me to interact with my classmates easily," he continued. "I think that this is the best part of living in the Quad, the fact that I'm living with other law students allows me to fully experience all that law school is about. . . ."

"I generally have found my first-year courses to be interesting. It is also interesting to be around others who really enjoy school and learning about the law."

To Pih, "using the law is a really good way to effect social change. I found that the fields I'm interested in working in, such as civil rights and liberties, economic development, human rights, labor issues, and international politics, all revolve around knowing the law."

He hopes eventually "to work in a firm or organization that is committed to these issues. Eventually, I would like to work at the international level, possibly in government, as an international lawyer."

Christopher Pih



Virginia Rosa

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VIRGINIA ROSA

Becoming a lawyer, says Virginia Rosa, ensures that she'll be in the game and not in the stands. Not that she's been just a fan so far:

She's taught English in Germany as part of the Fulbright program for foreign language teaching assistants, written from Germany for the *Wall Street Journal Europe*, and earned a master's degree in political science from the Free University of Berlin.

A native of southern California, she headed for Germany with the Fulbright program after earning her bachelors degree in Spanish and professional writing at the University of Redlands. She said it was fascinating to watch as the different cultures of the former East and West Germans went about re-fusing into a single nation after reunification.

She had planned to stay overseas for three years to immerse herself in the language and culture. She ended up staying six, and then returned to the United States last fall to enter law school. "It's nice to be back," she said. Thanksgiving 1999 was the first one in six years that she spent at home with her family.

Asked why she decided to return after all those years in Europe, she replied, "I wanted to come back. I knew I wouldn't stay in Europe forever. I see my place as between the two continents, between the United States and Europe. I'd like to be in on the process of building relations between our two systems, and I think I have a lot to contribute because of all the time I've spent in both places."

Rosa considered studying in Europe, but decided that the rigors of legal education and the subtleties and

complexities of legal argument demanded that she study in the language she knows best — English. "I'll never be fluent enough to study and practice law in German," she said modestly. Ditto for French and Spanish, which she also speaks.

She's keeping up her language skills, though, in addition to shouldering the load of a first-year law student. Almost any lunchtime, you can find her at one of the language practice tables that the Law School provides for students to hear and practice French, German, Japanese, Chinese, Hebrew, and Spanish. Off campus, some students also established a lunch table for those who want to speak Italian.

Rosa said she misses the gaggle of languages she became accustomed to hearing on the streets in Berlin, and had to get used to hearing only English here. She said she gets a little of the multi-cultural flavor at the Phi Delta Phi house, where she lives with more than 20 other law students, many of whom speak a language in addition to English. (Phi Delta Phi, an organization for law students, was founded at the University of Michigan in 1869.)

She's also had to get used to the frenetic lifestyle at the Law School. "The pace is intense," she said. "It doesn't allow time for reflecting about what we're learning, let alone discussing the broader implications of what we learn about in class."

For the future, who can tell for sure? She doesn't have specific plans, she says, just a lot of ideas. "Maybe I'll continue to work on nuclear policy issues, since that's what I wrote my master's thesis on in Berlin. Or maybe I'll do something completely different. I'll wait and see."

But, she adds, "Whatever I do will have an international aspect to it. That's set in stone."

TAHAN THRAYA

Tahan “Tom” Thraya first saw the Law Quad when he was 13 — and never forgot it. “I immediately fell in love with the Gothic, Jacobean architecture of the Law Quad,” he recalls. He was on vacation then, and, while he doesn’t consider it a vacation to study at the Law School now, he’s glad to be back. There’s much here that enriches a student’s legal education, he says.

“As a transfer student, having attended my first-year of law school at DePaul University College of Law in Chicago, I believe I have a unique perspective on a ‘new’ student’s impressions of the Law School thus far,” says Thraya, who is a member of the class of 2001 and the only second-year student in this group of profiles. “First, the most apparent feature of the Law School is its collegial, congenial atmosphere, both a reflection of the student body and the faculty . . .

“Second, Michigan will undoubtedly satisfy virtually any student’s particular interests, ranging from criminal law reform to literature and the law. With the Law School’s busy extracurricular schedule, a student is sure to find a lecture or conference that appeals to his or her fancy.

“Finally, the Law School is not an island, isolating itself from the rest of the campus. Rather, law students are afforded the opportunity to seek additional instruction from the U-M’s other esteemed graduate schools and departments. All of this serves to enrich a student’s legal educational experience at the University of Michigan Law School.”

Thraya is a Canadian citizen, from Calgary, Alberta, whose Lebanese forebears came to North America in the 19th century. His parents lived in the United States for a time before moving to Canada and most of his extended family continues to live in the United States.

“I did my undergraduate honors degree in philosophy and comparative studies at the University of Calgary, a school of roughly 25,000 students. While pursuing my honors thesis in ancient Islamic law/jurisprudence, I developed an interest in Arabic, and the next thing I knew I was in Saudi Arabia and Yemen studying Arabic grammar and speech.”

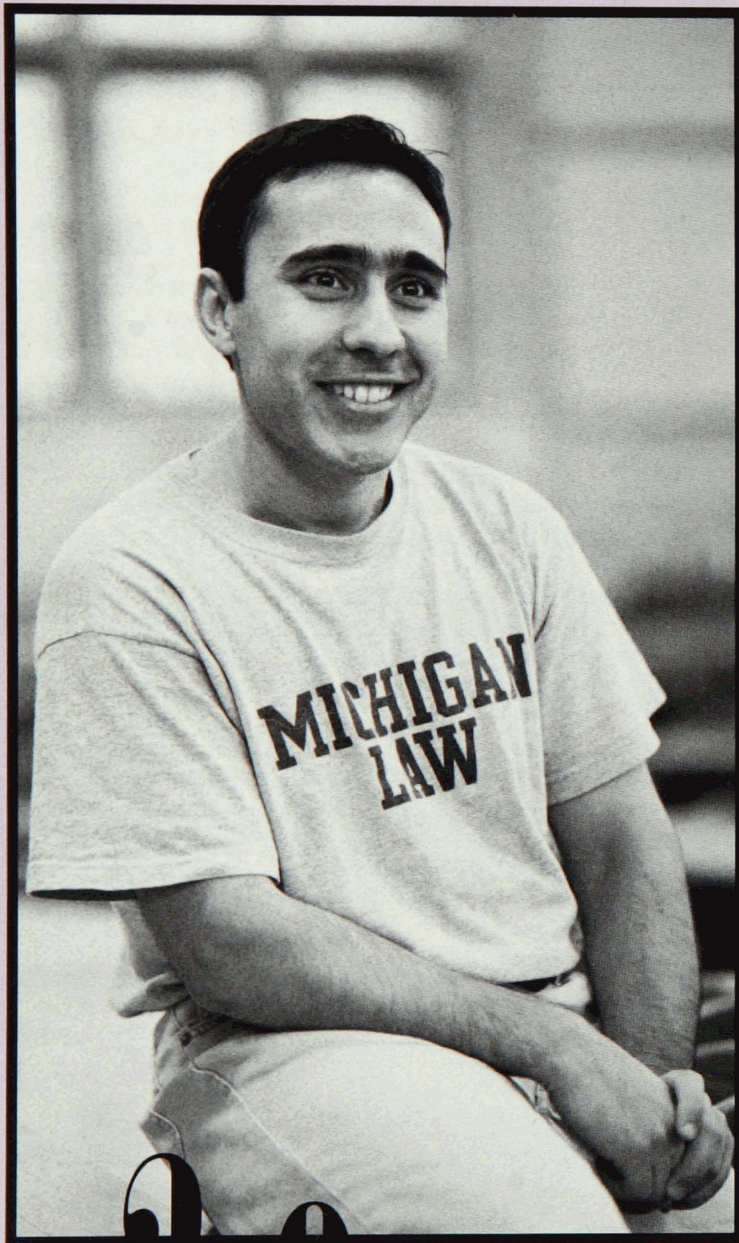
The first in his family to study law and the first University of Calgary graduate to attend the Law School, Thraya came to Michigan because “I am very much interested in international law, and, needless to say, the Law School has the most comprehensive international law course selection and most distinguished faculty of any law school in the United States. My intention is to gain experience in international corporate practice, although I intend also to pursue my ambitions in comparative international law. To what degree, I am unsure.”

An associate editor of the *Michigan Journal of International Law*, Thraya says he is fascinated by the law’s “ability to create order and justice among a very diversified body of citizenry. I think the law is best described as a discourse, an open discussion with no real end in sight.

“Coming from an immigrant Middle Eastern family, I have always felt as though it was unfortunate that ‘we’ were generally not partaking in this necessary discourse, to the extent of not allowing ‘that’ voice, among the ‘many’ voices, to be heard.

“This personal sentiment reached its high point around the time of the World Trade Center bombing, where many unfounded and clearly mistaken claims regarding Islamic law and Muslim practice were broadcast around the world. As tragic and unnecessary as that terrible act was, our tendency to immediately view such action as a representation of Islam and its legal system may in fact prove to be equally tragic. Both our stereotypes and ignorance must be challenged in this discourse we call ‘law.’”

Tahan Thraya



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Refugee/Asylum Law Program Fellows will work in United States, Europe, Zambia

Four Law School students have won Refugee and Asylum Law Program Fellowships to undertake six-week internships this summer with agencies in the United States, Africa, and Europe to deepen their knowledge and gain experience working in the field.

J. Andrea Park will work with the European Council on Refugees and Exiles in Brussels; Asim Rehman will spend time at the office of the UN High Commissioner for Refugees in Washington, D.C.; Michael Kagan will be with the Coordinator of Refugee Work for Amnesty International in London; and Kate Semple Barta will be placed with the program's most recent partner agency, Jesuit Refugee Services, working in refugee camps in Zambia.

"These are exceptional students, and these placements offer top-notch experience for each of them," said Professor James C. Hathaway, director of the Program in Refugee and Asylum Law. "The summer fellowships are a key part of what makes the University of Michigan's refugee law initiative truly unique. We not only teach our students the principles of refugee law, but we afford them the opportunity to see refugee protection in action both via our new in-house clinical program in U.S. asylum law, and the overseas fellowships. Equipped with this experience, students return to the classroom with new ideas and strong motivation that enable them to engage in advanced refugee policy work."

Each fellowship recipient brings special attributes to the internships:

- Park, who holds degrees in biological sciences from De Paul University and the University of Chicago, immigrated to the United States with her family from Korea when she was 10 years old. Her experience last summer clerking for an attorney who works on immigration/deportation issues showed her that her own immigration gives her a special affinity for refugee/asylum law work.



"I suppose I might have shied away from this area of law because of deep feelings of helplessness that had marked my immigration," she said in her fellowship application. "I hesitated at becoming witness to the experiences of others. The subject was already too personal. But perhaps that makes the difference in the end, for I thrived in the work, and felt effective and inspired."

"I learned that I could do the work, and well, but what became essential was that I cared, deeply," she said. "This is what will inspire me always. It was gratifying to see the substance of law translated into human terms."

- Rehman's senior thesis in political science, "Islam & Democracy," won the political science department's "Most Outstanding Senior Thesis" award at Haverford College, where he concentrated his bachelor's degree work in international and comparative government. He also has studied at the American University in

Winners of Refugee and Asylum Law Program summer fellowships and their internship locations are, from left: Asim Rehman, UN High Commissioner for Refugees, Washington, D.C.; Michael Kagan, Coordinator of Refugee Work, Amnesty International, London; and Kate Semple Barta, Jesuit Refugee Service, Zambia. Each internship is for six weeks. Not pictured is J. Andrea Park, who will intern at the European Council on Refugees and Exiles in Brussels.

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Continued from page 15

Cairo, and worked at the AIRE Centre (Advice on Individual Rights in Europe) in London, the Human Rights Commission of Pakistan, the Center for Migration Studies of New York Inc., and the UN Department of Humanitarian Affairs.

At the Law School, he and two other students have been working to re-establish the student-run Refugee and Asylum Law Project.

"Refugee and asylum law necessarily involves large-scale matters of international concern, but similarly exists with the purpose of assisting real people," Rehman said in his application. "In college, as I became increasingly interested in international relations and the interaction between states and cultures, I knew that I wanted a career that would keep me involved in what was happening in the world and enable me to make some changes. . . .

"However, having spent much of my youth involved in community service activities, I knew that I could only feel good about myself if I was doing something that helped others in need. In some areas of the law, these two interests are polar opposites. Refugee and asylum law, on the other hand, facilitates both by combining elements of international law, foreign policy, current events, and practical remedies for real people with real problems."

■ Kagan was voted Phi Beta Kappa at Northwestern University, where he majored in political science and American studies. An award-winning sportswriter and former White House congressional intern, he also has worked with the American Civil Liberties Union of Washington in Seattle, the Center for Human Rights Legal Aid in Cairo, the Israel-Palestine Center for Research and

Information in Jerusalem, and Voices for Illinois Children.

His fellowship application began: "Two weeks ago, Ahmed, an Algerian refugee in Cairo, learned that he will become a permanent resident of Canada. I had worked on his case for 16 months, first fighting to get the UN High Commissioner for Refugees to recognize his refugee status, and then promoting him for resettlement programs. Ahmed will travel in May, four years after he bribed his way from Algeria to Libya to escape death squads, and two years after he sewed his life savings into the soles of his shoes to escape Libya. He told me in an e-mail: 'I'm tired, hungry, but very happy.'

"That's why I am applying for this fellowship."

■ Barta, a creative writing and journalism graduate of Beloit College, has worked with the Hungarian Helsinki Committee and the Centre for the Defense of Human Rights, both in Budapest, and with the Archdiocese of Detroit's Immigration and Legal Services. She also has done editorial work and journalism education work in the Czech Republic and Romania.

"I feel there are few better ways to spend my time and energy than to assist a person with a claim that could perhaps save his or her life, keep him or her from harm, or assist him or her in becoming established in a new country," she explained in her application. "This is a responsibility that I wish to approach not only from an individual perspective, but also from a community perspective. . . .

"My goals include gaining a better understanding of the motivation for restrictive policy, how, despite such policy, international law can protect those seeking [refugee] status worldwide, and what role non-governmental organizations can have in effecting policy and sentiment."

"The summer fellowship program really is a win-win proposition," Hathaway pointed out. "Our partner agencies benefit from the talent and commitment of truly outstanding Michigan students, while our students develop a more realistic and contextualized understanding of the role of international law."

The fellowships are supported by a gift from Ronald Olson, '66, and his wife, Jane.



Unwired —

Law students work at the new wireless computers set up in the Reading Room. Initially tested and provided for students to use to schedule job interviews, the remote computers quickly proved so popular that the Law School made them available for general daytime use by law students. At deadline time, work was underway to connect additional remote computers to the Law Library's network to further expand Law School access. Laptop computers in the Reading Room plug into electric receptacles at the base of the study tables and use small antenna cards to pick up signals from a transmission site on the wall behind the information desk. They offer the same programs and connections as desktop computers hooked to Law School Ethernet lines that are available to students at a number of sites throughout the Law School.

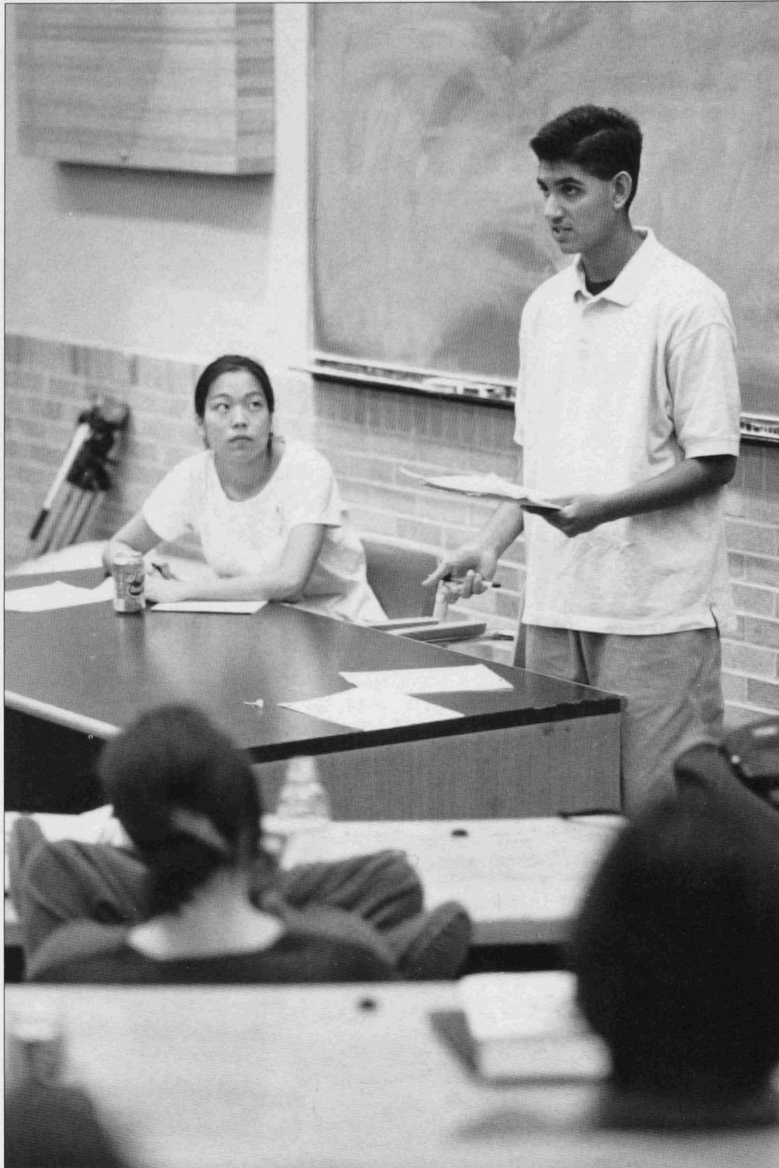
APALSA speaker: divestment attacks inequality

Professor Robert S. Chang, of Loyola Law School in Los Angeles, has studied individual and institutional investments and how they help maintain discrimination among some groups in the United States. One way to ease this inequality is to remove investments that promote it, he explained in "Divest Now! Destabilizing Bad Categorical Investments," a talk he delivered at the Law School in October under the sponsorship of the Asian Pacific American Law Students Association (APALSA).

Chang's introduction to divestment as a tactic came during his undergraduate years at Princeton University, where student activists were demanding that investments in South Africa be withdrawn to help demolish apartheid. "Can there ever be meaningful reconstruction or justice without disinvestment?" he asked.

Here in the United States, he said, Asian Americans "are both the victims and beneficiaries of discrimination." It takes about nine years to reap in benefits what you have contributed to Social Security, he said. After that, the program becomes a welfare program.

Inequality in benefits occurs because, on average, white people live longer than black people, so they receive Social Security "welfare" for



a longer time, Chang continued. Asian Americans also live longer than African Americans, on average, so they too are reaping a disproportionately large benefit.

Yea or nay? —

"Should Asian Pacific Americans Support Affirmative Action?" Second-year law student Amit Kurlekar, standing, says "nay" as he debates the question with third-year law student Winnie Kao, seated, in a program in October sponsored by the Asian Pacific American Law Students Association. It's better to attack the core economic problems that cause inequality than to indirectly use race as a proxy, Kurlekar argued. He said Asian Americans might be hurt if affirmative action programs are applied to areas of higher education where Asian Americans are over-represented, like engineering. "There is a sense of national fatigue about the subject of affirmative action," he said.

Yes, Asian Pacific Americans should support affirmative action for a variety of reasons, says Kao: like the need for diversity, past discrimination against Asians, and under-representation of Asians in the professions and academia. Asian Pacific Americans should not oppose other minorities on questions of affirmative action, she said. "The myth of the model minority is misleading and dangerous."

Civil rights' last struggle

Ending discrimination for sexual preference is "The Last Civil Rights Struggle," Stanford Law School Dean Kathleen Sullivan explained in her talk of that title in September at Rackham Auditorium.

But ending such discrimination hasn't generated as widespread support as the struggle for racial equality because "the history of slavery has no analog in this country," she said. "No one ever has confused the closet with the auction block."

Sullivan's talk, which was co-sponsored by the Law School, was part of the establishment of a Telluride House at the University of Michigan. The Telluride

Association, founded in 1911, "fosters dynamic educational communities in which the experience of self-government enables students to become more valuable and effective members of society." The association has operated a Telluride House at Cornell University for many years — Sullivan lived at the Cornell house as an undergraduate — and plans to open a Telluride House at the University of Michigan in fall 2000. Students of different linguistic, national, and other backgrounds will live together at the house; guest speakers and other special programs will add to their living experience.

Law School Dean Jeffrey S. Lehman, '81, introduced Sullivan, as "in many ways the complete law teacher." Formerly a professor at Harvard Law School, she is a brilliant teacher and scholar, he said.

Incidents like the killing in Colorado and protests against gay couples' public commitments to each other in San Francisco may reflect a weakening in the opposition to discrimination, Sullivan said. But such discrimination is "deeply alien, for the most part, to our constitutional law" because of its traditions of personal autonomy, social welfare, and the goals of preventing tyranny or facilitating pluralism.



Torture Outlawed —

Allegra Pacheco, a private practice human rights attorney in Bethlehem, speaks to a Law School audience about the Supreme Court of Israel's unanimous decision in September 1999 that "a reasonable investigation is necessarily one free of torture, free of cruel, inhuman treatment of the subject, and free of any degrading handling whatsoever." Pacheco, a member of the board of the Public Committee Against Torture in Israel, and Sahar Fahim Francis (seated), a lawyer with the Badil Resource Center for Residency and Refugee Rights in Bethlehem, represented one of the applicants for relief in the case. Pacheco criticized the court for basing its holding on statutory grounds rather than on international treaty law and for holding open the possibility that in a different case state investigators might be allowed to invoke the "necessity defense" against criminal liability if they use illegal investigative methods. Francis discussed the treatment of Palestinian prisoners in Israel, house demolition, and the impact of closures. Their program, presented in November, was arranged through the Center for International and Comparative Law. Aharon Barak, a visiting professor at the Law School from 1990-93 and a recipient of an honorary degree from the University of Michigan in May 1999, is President of the Supreme Court of Israel.



Insiders' looks at practice in the Windy City

In a program filled with insiders' tips valuable to any future lawyer, three representatives of the Chicago Committee on Minorities in Large Law Firms provided interviewing hints, insights into practice in the Windy City area, and other suggestions aimed at turning successful law students into successful lawyers.

Chicago presents a "very diverse" and "very sophisticated practice area," explained Jeanne Marie Gills, an intellectual property specialist and litigator with Foley & Lardner. "It's not a 9-to-5 job that you're headed for, and because of that you need to become a very good planner," added Robert L. Jackson III, '94, a labor/employment law specialist with Seyfarth, Shaw, Fairweather & Geraldson.

"The majority of firms are quite interested in having you do some *pro bono* work," said Earl J. Barnes II, '89, of

Gardner, Carton & Douglas. Ask about the firm's policy on such work during your interview, he advised.

The three speakers stressed the value of a mentor for new attorneys. Don't limit your search for a mentor to minority attorneys, they urged. "Be open to mentors wherever you may find them," Jackson advised. Barnes also noted that the Cook County Bar Association, the oldest African American bar association in the United States, can help attorneys find mentors if they don't find what they need within their own firms.

Formed in the late 1980s, the Chicago Committee on Minorities in Large Law Firms helps law firms find minority lawyers to hire and supports the promotion of minority attorneys within firms. Its membership includes nearly 40 of the 50 largest law firms in Chicago. The committee representatives' visit was sponsored by the Law School's Office of Academic Services.

Jeanne Marie Gills, of Foley & Lardner in Chicago, discusses the diversity and sophistication of Chicago area practice during a program at the Law School early in the fall term. At left is Earl J. Barnes II, '89, of Gardner, Carton & Douglas, and at right is Robert L. Jackson III, '94, of Seyfarth, Shaw, Fairweather & Geraldson, both also in Chicago. The speakers are members of the Chicago Committee on Minorities in Large Law Firms.

International Law Workshop strips the cutting edge

Cutting edge programs are the hallmark of the Law School's International Law Workshop (ILW), the series of experts' talks on front page international topics that is marking its fourth anniversary this academic year.

A glance at the fall lineup proves again how the workshop provides valuable background and illumination for many of the events of the day. Speakers discussed:

- The dispute between the United States and the European Community over European import of American beef raised with growth-inducing hormones. The dispute has resulted in U.S. trade sanctions against Europe and foreshadows an even more fierce battle over genetically engineered food products.

- The continuing impact of globalization on labor rights.

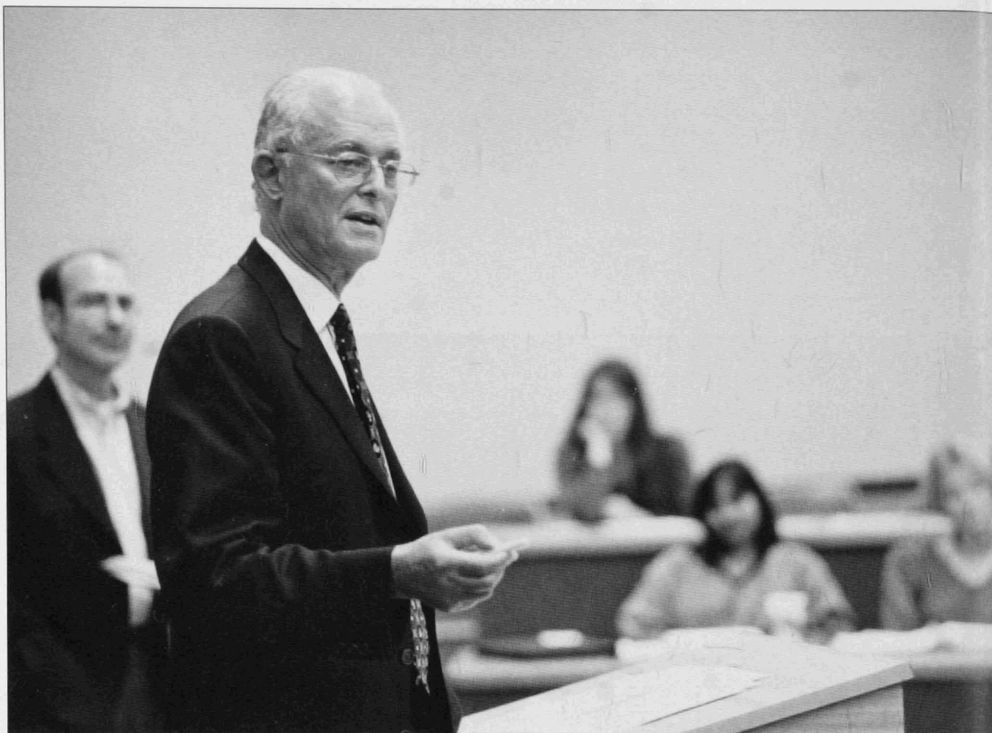
- The Northern Ireland peace process.

- The "new strategic concept" that grew out of the United Nations' default in Kosovo and NATO's action in bombing to settle the dispute between the Belgrade government and its Kosovo province.

- The failure of international organizations in East Timor.

- Current negotiations to standardize and otherwise improve Mexican-U.S.-Canadian trade as a result of the North American Free Trade Agreement (NAFTA).

- Domestic terrorism as embedded in the Islamic tradition.



"The whole point of this series is to engage students actively with some of the best experts" on these and other subjects, Professor James C. Hathaway said in opening the series. The ILW is organized by Hathaway, Professor Michael Heller, and Assistant Dean for International Programs Virginia Gordon. Designed for non-specialists, each program includes a formal lecture, response by a Law School faculty member, and questions from the audience. Participants often continue their conversations during the receptions that follow each talk; the receptions are sponsored by the *Michigan Journal of International Law*, the International Law Society, and the Center for International and Comparative Law.

Here's a look at last fall's programs:

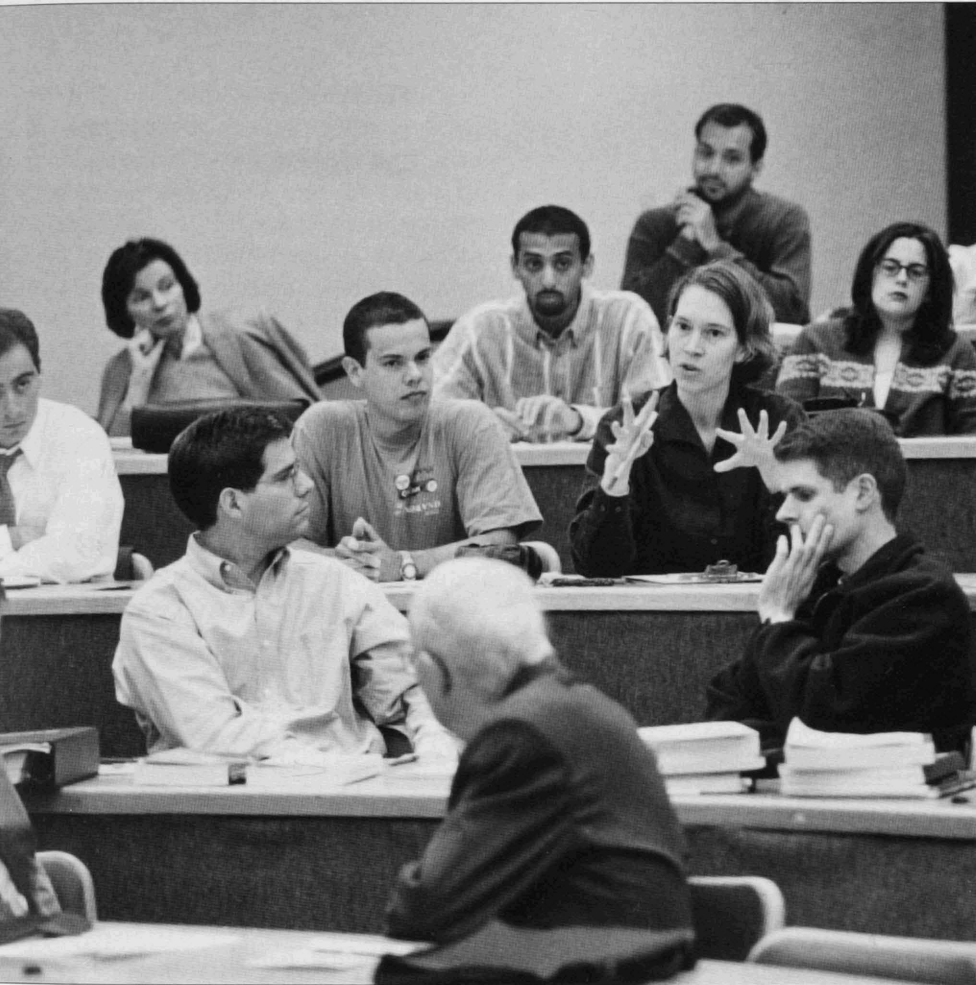
- Horst Krenzler, a professor at the European University Institute in Florence, Italy, and former director-general at the European Commission in Brussels, launched the fall series with a discussion of the dispute between the European Union and the United States over importation into Europe of American beef raised with growth-inducing hormones. Despite losing its case in the World Trade Organization dispute settlement procedure, Europe has continued to ban the import of U.S. and Canadian beef that used hormones.

Consumer sensitivities differ on opposite sides of the Atlantic, Krenzler explained. Europeans readily buy cheese made with raw milk — a traditional cheese-making method in much of Europe — while Americans do not consider such a food safe. In contrast, Americans readily accept foods whose production utilizes high-tech methods, while Europeans are more skeptical of such products.

Further, the beef hormone case may be just the tip of the iceberg. "The significance of the beef hormone case . . . extends well beyond that individual dispute," according to Krenzler. "The genetically modified food (GM food) issue is economically much more important and has a high trade conflict potential." He cited a report during the summer that the U.S. ambassador to the European Community "recently gave a warning that the EC and the United States are heading for a \$1 billion trade war over the EC's decision to suspend licenses for genetically modified food products."

- In October, as UN peacekeeping efforts finally began in East Timor after a summer of bloodshed that forced hundreds of thousands of residents to flee from the former Portuguese colony, Affiliated Overseas Faculty member Christine Chinkin spoke on "East Timor: The Failure of International Institutions." Chinkin, a professor of international law at the London School of Economics at the University of London, originally had planned to discuss "International Law and

Horst Krenzler, left, launches the fall term's International Law Workshop (ILW) with a discussion of the dispute between the European Union and the United States over importation of American beef that has been raised with growth-inducing hormones. Krenzler is a professor at the European University Institute in Florence, Italy, and former director-general at the European Commission in Brussels. Behind Krenzler is Professor James C. Hathaway, who is co-organizer of the ILW and introduced Krenzler. Below, law student Virginia Rosa questions Krenzler during the discussion period that followed his talk.



the Nationality of Women." Her change of topic neatly sharpened ILW's usual timeliness.

Chinkin outlined the "tragedy in three acts" scripted by the international community's inaction in East Timor. After World War II, the Portuguese loosened their hold on the territory but did nothing to prepare it for independence, she said. In 1975, Indonesia invaded East Timor and annexed it as Indonesia's 27th province; ineffective remonstrations from the UN Security Council amounted to "a mild rap on the knuckles." From 1983-91 the international community engaged itself in "a growing aim to make the problem go away."

The current phase began in 1998 with the end of President Suharto's reign and the promise by his successor, Habib, to grant autonomy or independence to East Timor. The Security Council's agreement to forego involvement without Indonesia's approval, she said, "absolutely confirms that [the doctrine of] humanitarian intervention has not become firmly established." For a variety of reasons, "What we see is a treating of Indonesia with kid gloves."

■ Boris Kozolchyk, LL.M. '60, S.J.D. '65, president and director of the National Law Center for Inter-American Free Trade, spoke later in October on "Secured Transactions in Latin America." (See related story page 62.) Kozolchyk's center, located at the University of Arizona College of Law, where he is a professor of law, is one of three established by NAFTA; the others are in Canada and Mexico.

The centers help standardize trade documents and credit procedures among NAFTA countries. Kozolchyk's center led development of the secured credit bill that was before the Mexican parliament at the time of his Law School talk.

Cultural differences abound in such arenas, Kozolchyk said. The American system is the most active commercial finance system in the world and uses almost anything with market value as collateral. In contrast, real property is the common denominator as collateral throughout Latin America.

Other ILW speakers during the fall included:

■ Affiliated Overseas Faculty member Christopher McCrudden, professor of human rights at Oxford University, speaking on "Globalization and Labor Rights."

■ Colin Harvey, lecturer at the School of Law of Queen's University in Belfast, speaking on "Human Rights, Democratic Governance, and the Northern Ireland Peace Process."

■ Affiliated Overseas Faculty member Bruno Simma, professor at the University of Munich Faculty of Law and a member of the UN's International Law Commission, speaking on "The United Nations and the Use of Force by NATO: From Kosovo to the New Strategic Concept."

■ Sherman Jackson, professor in the Department of Near Eastern Studies at the University of Michigan, speaking on "Domestic Terrorism in the Islamic Legal Tradition." Jackson's talk was co-sponsored by the University of Michigan Center for Middle Eastern and North African Studies.

Equality: *what does it mean?*



Deborah Rhode delivers the Elizabeth Charlotte Mullin Welch Lecture at the Law School in October.

The road to women's equality keeps taking new turns but retains a certain sameness. Or, as women's studies scholar Deborah Rhode put it in her talk "Speaking of Sex: The Denial of Gender Inequality"—"Over the last two decades much has changed — and much has remained the same."

Rhode, professor and director of the Keck Center on Legal Ethics and the Legal Profession at Stanford University School of Law, delivered the Elizabeth Charlotte Mullin Welch Lecture at the Law School in October. Her talk was sponsored by the Law School and the University of Michigan's Center for the Education of Women.

The Welch Lecture is named after the University of Michigan journalism graduate who eventually became one of the few women comptrollers of a major U.S. firm. Welch died in 1974. Her two sisters established the lectureship in her name and "chose the Center for the Education of Women as the locus for the endowment because the Center's commitment to further the aspirations of women is very much in the spirit of Elizabeth Charlotte Mullin Welch."

Rhode was president of the Association of American Law Schools in 1998 and was part of President Clinton's impeachment defense team when she served as senior counsel to the Minority members of the Judiciary Committee of the U.S. House of Representatives.

Progress in gender equality has created the misperception that the problem has been solved, Rhode said. That misperception "has itself become a major obstacle to change." For example,

"eighty-five percent of legislative office holders, and 95 percent of corporate executives are male; two-thirds of poor adults are female. Twenty-five years after passage of the Equal Pay Act, women's salaries lag 25 percent behind men's. Sexual violence remains pervasive. Between a quarter to a half of American women will experience rape or attempted rape, and a comparable percentage will be victims of domestic violence. On reproductive issues, many formal rights are available only to those who can afford to assert them. Women continue to shoulder the vast majority of responsibilities in the home, a burden that limits their opportunities in the world outside. There is, in short, some room for improvement."

In the case of the legal profession, "gender bias commissions consistently find both objective and subjective evidence of bias," she said. "Women currently occupy about 16 percent of tenured faculty positions in law school, 3 percent of the partnerships of large law firms, and 8 percent of federal bench [appointments]. Female lawyers also earn substantially less and express more dissatisfaction with practice than their male colleagues, and all of these disparities are greater for women of color.

"Yet, although recent surveys find increasing perceptions of gender bias, a large percentage of the public still doubts its significance. For example, between 40-50 percent of surveyed men do not believe that women experience discrimination for top positions in government, business, or the professions. Among surveyed lawyers, less than one-half of men but almost four-fifths of women believe that there is gender bias in the bar.

"Moreover, men who are aware of such bias often discount its significance. As one Texas practitioner recently noted, 'Of all the problems we have as lawyers,

gender discrimination is low on the list of important ones.' To him perhaps. But to women, the problems of unconscious bias and gender stereotypes remain significant."

There also remains a gap between what is due and what is received, Rhode said. "The current status of abortion rights points up the gap between legal entitlements and daily experience. Women have won the right to end a pregnancy free from 'undue burdens' by the state. Yet what constitutes such a burden has been interpreted from perspectives skewed by class, race, ethnicity, and gender. Predominately male legislatures have enacted, and courts have sustained, a range of restrictions that limit access to abortion particularly for poor and minority women: extended waiting periods, expensive testing, and the denial of public funds or the use of public facilities. Such restrictions target individuals who are least able to protect their own interests through political channels and who are least able to bear the costs of an unwanted child. The result, as feminist law professor Catharine MacKinnon notes, is that only 'women with privileges get rights.'"

"Programs like this one are a key part of the struggle: women's studies has taken what Betty Friedan once labeled 'the problem that has no name' and explored its dynamics and dimensions. Domestic violence, sexual harassment, and glass ceilings have been problems for centuries, but only in the last few decades, through the efforts of institutions like this one, have they become matters for legal remedies and social policies."



Who is the lawyer? —

Satisfaction with a job well done and happiness with your life are different things, the Hon. James L. Ryan of the U.S. Court of Appeals for the Sixth Circuit tells a midday audience during a talk at the Law School in November. "Lawyering is what you do, it's not what you are. . . . It can be fatal to get mixed up about what you are and what you do." Ryan served 22 years in the Michigan judiciary, including 10 years on the Michigan Supreme Court, before being named to the federal bench by President Reagan in 1985. His talk was presented by the Office of Student Services. Among his other points:

- A lawyer should develop a moral code for personal professional conduct that exceeds the minimums of bar-based codes.
- As a judge who has employed more than 70 clerks, he seeks a clerk who quickly can digest facts and arguments, writes well, shares his goal of doing the best possible job, and "is somebody I like to be with."
- Do not let the pressure to repay educational loans make you lose sight of your moral and professional goals.
- "At the end of the day, I want to be able to say that I used my gifts today in a way that will please the gift giver and will please me."



Support for public service work

Rob Precht, director of the Law School's Office of Public Service, spends many hours helping law students search out possible public service positions, find supporting agencies, and hone proposals for fellowships and other aid that will help them practice public service law. He tells potential applicants that he will "meet with you during the day, in the evening, or on weekends" to lend his assistance in fashioning a successful application.

Precht also brings fellowship organization leaders to the Law School to explain their programs and offer guidance in preparing applications. Twice in September, the Office of Public Service sponsored such programs to acquaint law students and others with two of the nation's top public service fellowship programs: the Skadden Fellowships and the Soros Fellowships of the Open Society Institute's Center on Crime, Communities & Culture.

■ Skadden Fellowship Director Susan Butler Plum, who Precht described as "responsible for creating truly a national public interest law firm without walls," noted that the more than 270 former and current Skadden fellows form a mutual help network that girds the country. Law School Dean Jeffrey S. Lehman, '81, is a trustee of the Skadden Foundation, and fellows from the Law School have been "extraordinary people" who still are working in public service, Plum noted.

The Law School has had eight Skadden fellows since 1995. (See related story on page 26.) Twenty-five fellowships are awarded each year. Plum encouraged applicants to use the application to explain and elaborate on their backgrounds and goals. "We're interested in who you are and how you got to where you are," she said.

"Think of it as an apprenticeship," Plum explained of the fellowship period, which initially is for one year and usually is extended an additional year. "Think of

someone you want to apprentice to and learn from."

"The Skadden Fellowship is a wonderful, wonderful program. It gives people the chance to work on programs for which the money would never exist," said Riyaz Kanji, an affiliated professor at the Law School this winter term who worked with Evergreen Legal Services in Seattle as a Skadden fellow from 1992-94. "And you have access to the other Skadden fellows and the resources of the Skadden firm [Skadden, Arps, Slate, Meagher & Flom L.L.P.]." As a Skadden fellow, Kanji worked on a fishing rights treaty for Native Americans. In Ann Arbor, in addition to teaching at the Law School, he has established a law firm to work on Native American issues in Michigan. He discussed the firm and his work in this area in a separate program at the Law School in January.

■ The Open Society Institute sees the problems associated with incarceration as major issues and its Soros Justice

Fellowships concentrate in this area, Miriam Porter told law students and others in a get-acquainted program at the Michigan Union in September. The visit by Porter, program officer for fellowships/special events for The Center on Crime, Communities & Culture of the Soros Institute, was part of the outreach efforts of the Office of Public Service to bring together students and others interested in public service work with organizations that help sponsor such work. This was Porter's first visit to the Law School.

Soros Justice Fellowships are among several varieties of aid sponsored by the Open Society Institute, which lawyer George Soros founded about 10 years ago "to help maintain the democratic rule of law." The Justice Fellowships seek "to inspire talented individuals in law, public health, community development, and other professions to develop innovative responses to the problems of crime; to strengthen or expand successful criminal justice programs within existing organizations; and to promote substantive, nonpartisan debate on complex criminal justice issues." The fellowships are given in a postgraduate category for those who have graduated no more than seven years ago and in a senior category for law students in their final year of study.

Domestic criminal justice issues are the "primary focus" of the program, according to Porter. With more than 2 million people in its prisons, the United States incarcerates more people than any other nation but Russia, she said. This leads to many legal issues, among them concerns with non-citizens, juveniles, the accountability of elected officials, mandatory sentencing, and access to physical and mental health care.

Near left, Skadden Foundation Director Susan Butler Plum and former Skadden Fellow Riyaz Kanji discuss the application procedure and benefits of a Skadden Fellowship. Top left, Miriam Porter, program officer for fellowships and special events for the Open Society Institute (OSI), describes OSI's Soros Justice Fellowships for seniors and recent law school graduates. The two fellowship programs support people who wish to do public service work and pave the way for future contacts and a career in such work.



Kathryn Socha wins Skadden Fellowship

Kathryn Socha has become the eighth Law School student since 1995 to win a Skadden Fellowship. Socha, who graduates in May, will use the fellowship to work on domestic violence cases with the Chicago Life Span Center for Legal Services and Advocacy.

Most of Socha's clients are expected to be immigrant women from countries as different as Russia, Pakistan, and Mexico. Socha speaks French and Spanish, and will spend a month in Mexico honing her Spanish skills before she begins work with the Chicago Life Span Center.

"I propose to help provide this group of women with all the legal services they need to establish their independence," she wrote in her fellowship proposal. "Potential low-income clients will be referred from

shelters in the Chicago area. I will do initial intake interviews to assess the client's wishes, inform her of her rights, and decide roughly the scope of the legal issues involved.

"Then, with the assistance of other lawyers, I will meet the civil legal needs of the clients, which may include obtaining an order of protection, obtaining a divorce, resolution of child custody issues, and resolution of employment discrimination issues."

"Often, an abusive spouse will hold a woman's immigration status over her head," Socha said. "Fortunately, the U.S. government has proved sympathetic to battered spouse petitions."

At the Law School, Socha has worked for two years with the Asylum and Refugee

Project, and two summers ago she interned at Centro Romero, a Chicago community center that provides legal and educational services to Hispanic immigrants and files asylum petitions on behalf of foreign women married to U.S. citizens.

Last summer, as the winner of one of the Law School's Refugee and Asylum Law Program fellowships, Socha interned with the Representative of the European Council on Refugees and Exiles to the European Union in Brussels.

Twenty-five Skadden Fellowships are awarded yearly. Each fellowship provides an annual salary, fringe benefits, and student loan repayment assistance. (For more on the Skadden Fellowships, see story on page 24.)



What kind of practice do you want? —

Steven A. Hicks, '92, of Adams & Hicks P.L.C. in Lansing, draws laughter as he explains that "if you're a person who hates authority, solo practice is a fantastic way to go." Hicks and his fellow panelists spoke in September about their experience with small firms in the first of the Fall Luncheon Speakers Series talks presented by the Office of Career Services to acquaint students with different types of practices. Other panelists include, from left, Sherry Chin, '75, of Chin & Schwartz P.C., Ann Arbor; David Nacht, '92, of David A. Nacht P.C., Ann Arbor; Rachel K. Eickemeyer, '92, of Raheem & Eickemeyer, West Bloomfield; and Lawrence R. Jordan, of Seeligson, Jordan, DeLoof & Hopper, Ann Arbor. Other programs in the series focused on in-house counsel, international law, government, and criminal practice. Hicks specializes in insurance work; his partner specializes in family law. "The beauty of our setup is that we are basically two solo practitioners in one firm," he said.



With a song in the air —

Director Jeff Gutkin, right, leads the a capella Headnotes in a number for their pre-finals concert at the Law School in December. The program, in the Headnotes' words, featured "40 minutes of U2, Rachmaninoff, Gin Blossoms, Billy Joel, Manhattan Transfer and more . . . all sung by law students." The Headnotes is made up of law students whose love for music leads them to find the time amid their studies to rehearse and perform. The group regularly presents this December concert to fellow students as a pre-examination gift. Members of the group include: Gutkin, Eric Baker, Jeff Crouch, Coreen Duffy, Greg Feldkamp, Matthew Gerke, Eva Goldstein, Amy Harwell, Derek Johnson, Jane Larrington, Alexandra Lee, Tara McCarthy, Averi Miles, Haley Miller, Ben Mizer, Patty Song, and Vernon Walling.

Lunchtime learning



Office of Career Services Attorney-Counselor Sarah Zearfoss, '92, discusses the dynamics of a prisoner's rights case during a midday program in October.



PHOTOS BY BILL WOOD/UNIVERSITY PHOTO SERVICES

"Brown Bag Lunches" offer an opportunity for the Law School community to hear a variety of visitors and colleagues talk about specific experiences with the law. Office of Career Services Attorney-Counselor Sarah Zearfoss, '92, discussed the "Anatomy of a Civil Case: A Prisoner's Civil Rights Case" during a Brown Bag session in the Lawyers Club in early October.

To an audience of mostly first-year students, Zearfoss explained how her work after graduation, first as a clerk for the Hon. James L. Ryan of the U.S. Court of Appeals for the Sixth Circuit, and then as a litigation associate with Pepper, Hamilton & Scheetz in Detroit, contributed to her desire to be responsible for a case that would test her skills as a lawyer and expose her to some new challenges. As she investigated the possibilities, she found her niche with a prisoner's rights case.

Zearfoss explained that judges and their clerks hate to see this type of case come up: "Often, these cases do not have much merit, tend to be poorly briefed, and have been poorly lawyered." Judges and clerks

often look at them as time-consuming cases that seldom lead to success on the part of the prisoner.

However, the case Zearfoss took had already gone through a round of briefs and "some judge on the panel had decided that there was some merit to it," which is what led to Zearfoss' appointment to handle it on a *pro bono* basis.

The prisoner claimed that prison medical officers had refused to give him treatment following his altercation with another prisoner, and that their refusal had been in retaliation for an earlier civil rights suit he had filed. The trial court granted summary judgment in favor of the defendants and against the prisoner, in essence, Zearfoss said, because it simply discounted the prisoner's version of the facts.

In the appeal, the prisoner had written his own brief, but it lacked the precision necessary to convince the court or even to be readily comprehensible. After sorting through the briefs, Zearfoss felt the case was "a classic dispute of fact."

"My challenge was to 'pull on them' [the court] and remind them that they've got to do the right thing" without irritating them

by appearing to nag or seem self-righteous, Zearfoss said. Her strategy was to do an atypical brief, one that looked like what clerks present to their judges — a precise and technical exposition that clearly stated the constitutional violation.

Zearfoss felt she had a solid legal foundation: "This was a classic case where a summary judgment was not appropriate" because the parties contradicted each other's version of events.

Ultimately, Zearfoss was called upon to present her oral argument before the Sixth Circuit Court of Appeals in Cincinnati (where she previously had clerked). This was her first oral argument presentation. Her stress was further increased because she recently had given birth to her first child, who, with her husband, was in the courtroom at the time. Although she feared her anxiety might distract from her oral argument, once one of the judges asked a question, she put forth a good response based on her thorough preparation for the case.

The final result: she won and also received a thank you from the court, a fairly unusual occurrence.

In summary, Zearfoss said:

- Taking on *pro bono* work is a good way to gain more in-depth experience in the early stages of your career.

- If advocating for a plaintiff in a civil rights case, give the court what it wants: clearly identify the constitutional right that has been violated.

- Although this case was about a "dispute of fact," in most appeals the facts aren't the issue as much as which of the defendant's constitutional rights have been violated.

- Often, appeals court judges have made a tentative decision about a case before you present your oral argument because they have read all of the court documents, may have done additional research, and are thoroughly prepared in advance of your appearance.

Zearfoss's talk was part of a series presented during the fall term by the Office of Student Services. Other programs in the series were:

- "Anatomy of a Criminal Law Case: The World Trade Center Case," presented in September by Rob Precht, director of the Office of Public Service. Precht was lead defense attorney in the World Trade Center bombing case.

- "Anatomy of a Family Law Case," presented in October by Donald Duquette, professor of clinical law and director of the Child Advocacy Law Clinic.

Lawyers Club Lounge renovation wins designer award

Renovation of the Lawyers Club Lounge, a ceiling-to-floor effort that included replacement of carpeting and furniture, has won second place in competition sponsored by the Association of University Interior Designers. The award was presented to U-M Housing Design Services interior designer Kelly Comfort in October in ceremonies that were part of the association's national conference at the University of Kansas.

Comfort worked on the project with designer Linda Nyrkkanen, who since has left Housing Design Services. The project competed in the \$50,000-\$150,000 category.

"The space was Tudor-Gothic with Arts and Crafts styling carried through the furniture, flooring, and window treatment," said the award announcement.

"The design blends many new purchases with existing original furnishings. Congratulations to Kelly and to us," Lawyers Club Manager Diane Nafranowicz said in announcing the award to the Law School community.

Comfort's competition entry said that the renovation retained four consoles and added black granite tops to preserve their original wood tops. She also pointed out the placement of Gothic-styled Windsor chairs to complement a window alcove and the use of William Morris-style motifs in furniture upholstery, carpeting, and tapestry. (Before-and-after photos of the project appear on the inside back cover of this issue.) The renovation was completed in November 1998.

Nora Fitzgerald helps fellow graduate Shawn Phillips adjust the hood of her academic gown prior to commencement ceremonies in December.



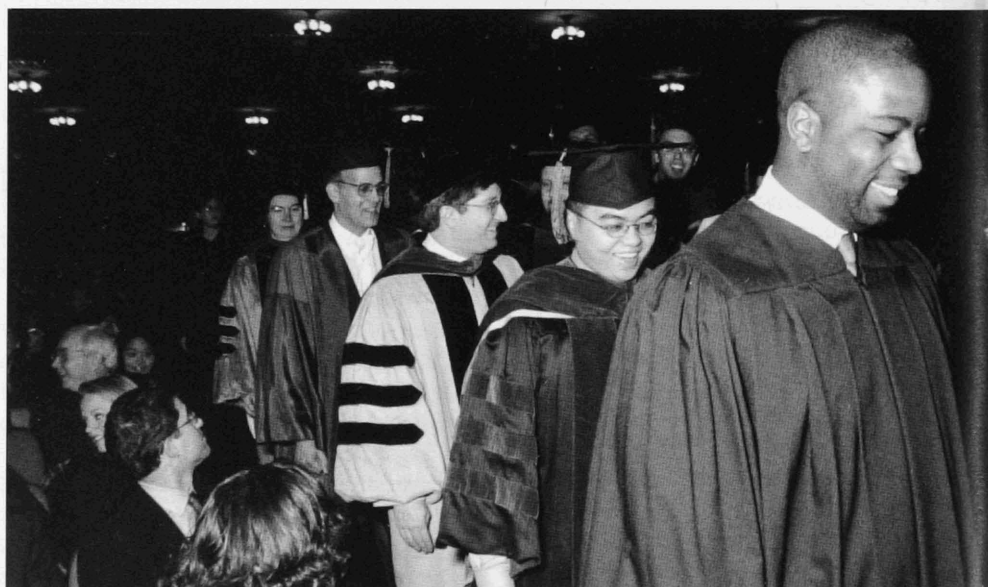
'The millennial graduates of the Law School'

The last Law School graduation of the 20th century repeated its traditional success — the warmth of accomplishment overwhelming the chill of December — as nearly 90 graduates celebrated the successful completion of their formal legal education.

"The millennial graduates of the Law School," Dean Jeffrey S. Lehman, '81, announced as the last of the capped-and-gowned graduates crossed the stage of the Michigan Theater. Like all commencements, this one marked a passing, this time a passing not only of a class of graduates from school to career but also the succession of one century by another. If these future lawyers are any measure, the 21st century is in good hands.

"Throughout our professional lives we must struggle to balance sensitivity to others with the preservation of an authentic and enduring sense of self," Lehman told the graduates. "I have great confidence that you, our December 1999 graduates, will prosper and thrive in that struggle."

Do not let haste overwhelm judgment,

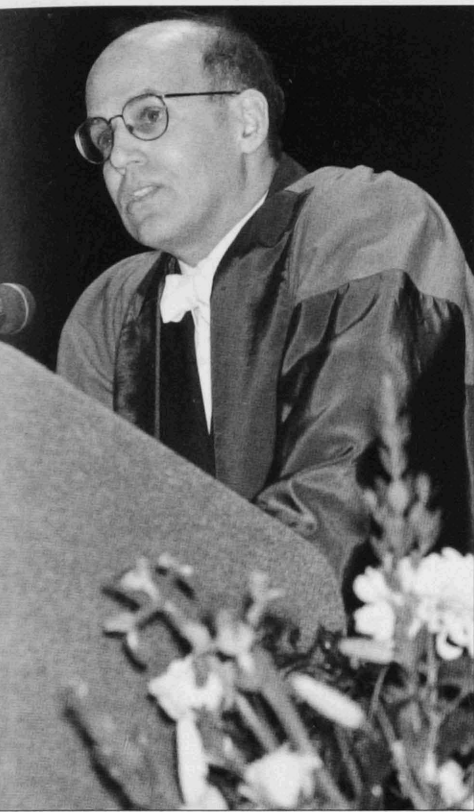


he advised. "There will be no more tests, no more grades. The world beyond law school is far more subtle and complex, a place where many different human qualities contribute to success. And in that world, we would be well-served if we would learn how to be patient."

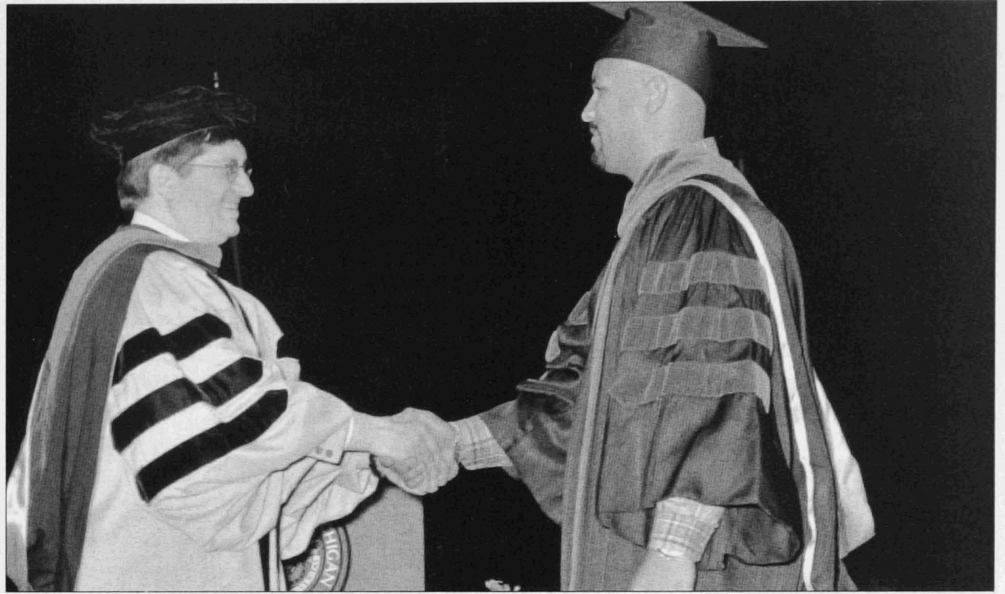
Professor Richard Friedman delivered the commencement address. He stressed

The commencement procession: Law School Student Senate President Brandon M. Mack, right, followed by graduate speaker Jet Arnaez, Dean Jeffrey S. Lehman, '81, commencement speaker Professor Richard Friedman, and Associate Dean Christina B. Whitman, '74.

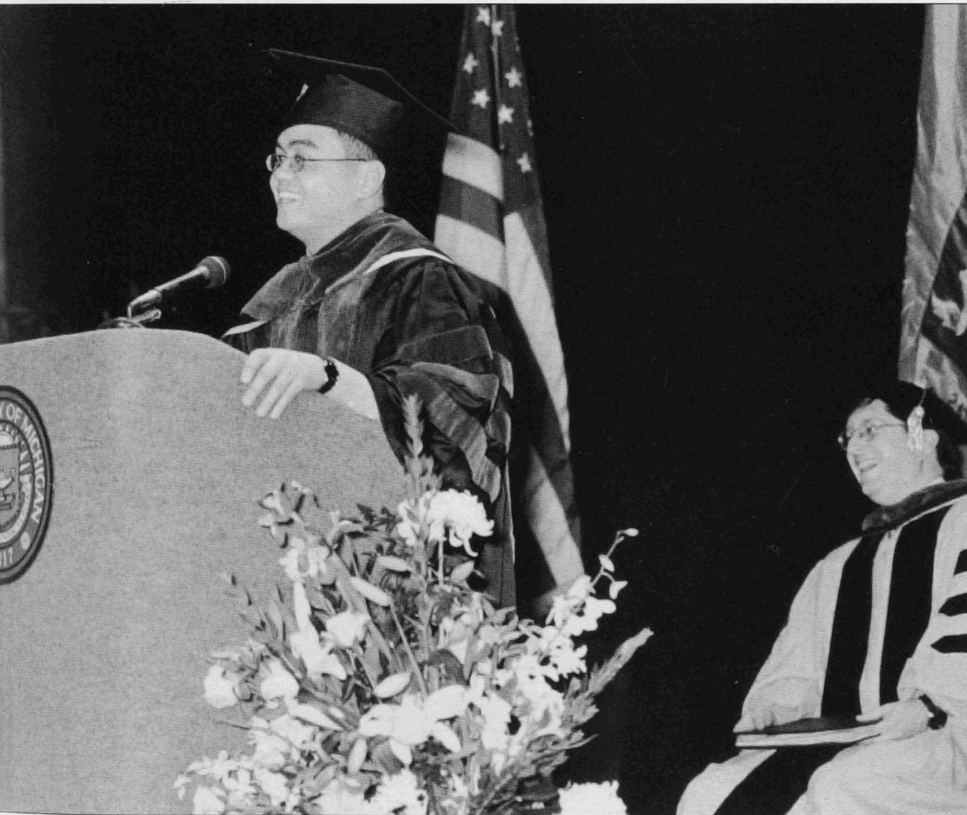
Sometimes, Professor Richard Friedman tells graduates, it helps to simplify a problem in order to solve it.



Dean Jeffrey S. Lehman, '81, congratulates graduate Charles Inmiss.



Graduate Jet Arnaez, elected by his fellow graduates to address them, shares his well-known sense of humor as he delivers his address. At right, Dean Jeffrey S. Lehman, '81, enjoys Arnaez' talk.



flapping its wings in one time and place can cause cataclysmic events many years later on the other side of the planet. . . . But even if it's true, what are you going to do about it? You don't know whether that butterfly flapping is more likely to have wonderful or tragic consequences, and really it's *most* likely to have very little impact that's more than local. How often have you seen ripples on a pond get *bigger* as they spread away from the pebble?"

■ On human capacities: Twenty years from now, "we'll probably be doing pretty much what we're doing today and in pretty much the same way. It's not just that we're old fuddy-duddies, though I wouldn't want to deny too strenuously that we are. Really, it's because no matter what the changes may be in the social, political, and legal environment, nobody has developed a better way to give students a good grounding in the law than to get them in a room with a teacher or two, thinking hard about challenging legal problems."

■ On finding the sensible path: "If you find yourself thinking hard on an ethical issue, trying to determine whether conduct you find tempting is acceptable, consider

Continued on page 32

the value of simplifying complex issues, the continuing human control of technology, and the unchanging nature of human capacities.

"First," he said, "complexity is pervasive, but we have to simplify, and we're pretty good at it. Second, most of the problems people have to deal with in their lives are shaped by the relatively

unchanging nature of human capacities, limitations, and desires. Third, once you identify the important factors at stake in a situation, a sensible range of action will often become fairly apparent."

■ On simplifying: "Maybe it's true that, as an old Ray Bradbury story and the grand cliché of modern complexity or chaos theory would have it, that a butterfly

BRIEFS

Continued from page 31

whether the fact that you have to think so hard about the matter provides its answer. An older lawyer . . . once gave me what I still regard as a wonderfully simple and effective test for many ethical problems: 'What you have to do,' he said, 'is ask yourself: How would I feel if this turned up on the front page of the *New York Times*?'"

Law School Student President Brandon M. Mack and graduating student Jet V. Arnaez also addressed the graduates and their well wishers. Learn from others, urged Mack, a second-year law student. "The most enriching thing I have found so far is the people we get to meet," he said. Get to know them, he urged. Let them speak to you, let them better your life.

For Arnaez, a native of the Philippines who had been elected by his fellow graduates to address the audience, it was an especially rewarding day. His father, mother, and sister had flown in from the Philippines. One brother came up from Texas. His other brother would arrive from the Philippines soon after commencement.

An aunt and cousins who had helped him while he lived in the United States before beginning his Law School studies also attended.

The last graduating speaker of this century, Arnaez spoke for all graduates: "We thank you for coming, we thank you for all your support, we thank you for all that you have done for us. Today is a very special day for us, and we are happy that we can share it with you."

He also quickly showed the knack for humor that his electors knew he would share: "Spend more time with your family and enjoy the time you have with them. Start today. Let them treat you to dinner."

He didn't take his own advice. Instead, he treated his visiting family and friends to dinner — by hiring a caterer to prepare a rich, Philippine-style repast of roast pig, curried noodles, and other dishes that celebrated his native land.

In preparing his commencement remarks, Arnaez had worked hard to avoid insider's humor that would be baffling to

many of those who had come to celebrate with the graduates. Laughter throughout the auditorium rewarded his efforts. "I used to dream of being the next Barry Sanders, the recently-retired running back of the Detroit Lions," he said at one point. "I remember back as an undergraduate, I wanted so badly to be the starting running back for the football team. But I didn't have enough talent. And we didn't have a football team."

He also had worked hard to go beyond laughter: "Make sure that the people you care about know how you feel about them. Don't wait for a special moment to say it, because tomorrow might be a day too late."

"In a nutshell," he concluded, "don't be miserable lawyers. Be happy, well-rounded people."

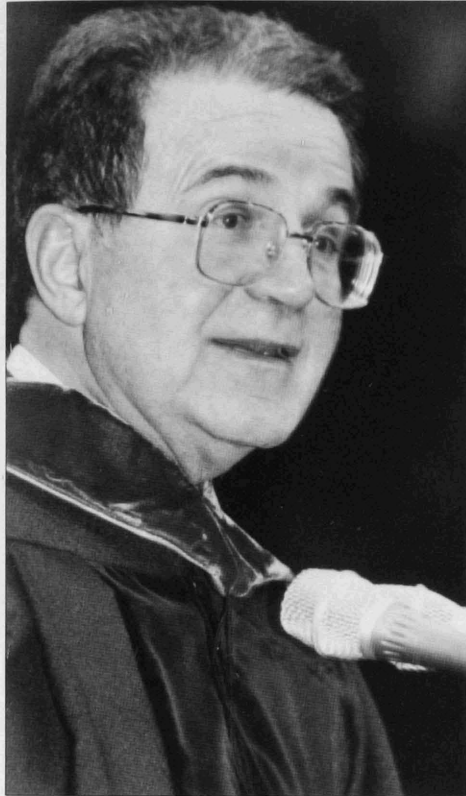
Dean Jeffrey S. Lehman, '81, poses with graduate Jet Arnaez, and, from left, Arnaez's brother Dart, sister Wezday, father Romeo, and mother Aurora.



The camaraderie of three years of Law School and the shared exultation of graduation.



Graduate Aubrey Watson holds nephew Gage Watson while she shares the celebration of graduation with sister Timmi Watson.



Successful European Union expansion will help Europe become "a truly dynamic economy and a truly inclusive society," Union Commission President and commencement speaker Romano Prodi predicts during graduation ceremonies at the University of Michigan in December. Prodi also received an honorary doctor of laws degree.

European Union president: EU growth will succeed

Life in the public eye can be satisfying but also exhausting, and most public figures welcome private times to share interests and insights with others.

Such was the case when European Union Commission President Romano Prodi came to Ann Arbor to deliver the commencement address and receive an honorary doctor of laws from the University of Michigan at its winter commencement in December. Prodi, a former prime minister of Italy, was being honored "for his achievements as a modernizer of the Italian economy and as a leader of the European Union — but above all for his inspiring example of the many ways in which a professor can serve the public interest," according to the citation honoring him.

"Economist and Europeanist, professor and prime minister, Romano Prodi is one of the most inspiring world leaders of his generation," the citation said. "His combination of personal integrity, political acumen, and commitment to the public interest have earned him his current position as president of the Commission of the European Community."

Mindful of the value of free moments and unfettered dialogue in the life of such a public figure, Prodi's hosts at the University of Michigan arranged for an afternoon of private conversation with a small group of professors from several University departments. Among them were three Law School faculty members whose work often focuses on the European Union and related issues: Assistant Professor Daniel Halberstam; Henry M. Butzel Professor of Law Thomas E. Kauper, '60; and Hessel E. Yntema Professor Emeritus of Law Eric Stein, '42.

"The discussion was quite interesting," Halberstam said. "We spoke about EU enlargement, the Common Agricultural Policy, and the WTO [World Trade Organization] trade negotiations, among other things. It was especially enlightening to explore these issues with a president of the EU Commission who had, prior to taking office, been the head of government of a member state."

In his commencement address, Prodi said that the EU's major challenge is to maintain political stability, prosperity, and social justice while expanding its membership from 15 to 27, with many of these new members coming from eastern Europe and the former Soviet bloc.

"I am optimistic about the enlargement process because all the countries concerned can see the long-term benefits it will bring and are determined to make it succeed," he said.

"I am optimistic about the economic and social outlook because several member states have already achieved good growth and high employment while maintaining their own versions of the European social model.

"I believe Europe has the potential to become a truly dynamic economy and a truly inclusive society. My Commission is determined to work hand in hand with European business and industry and with European governments to turn this potential into reality."

Can dollars make sense?

“You should view the money you’re borrowing as an investment, probably the most important investment you’ll ever make, but you should borrow as little as possible.”

That’s Financial Aid Director Katherine Gottschalk’s byword for law students. Student debt can grow alarmingly and can affect the professional and personal choices students make after law school, she explained during a talk in October sponsored by the Office of Career Services.

“What you do now [to finance law school] will really affect how you view your job search when you graduate,” Career Services Director Susan Guindi, ’90, emphasized after Gottschalk’s talk. With graduates’ educational debts often in the \$70,000 or higher range — \$100,000 is not unheard of — issues of budgeting and financial management have grown more critical for students and recent graduates alike.

Among Gottschalk’s points:

- A \$70,000 annual starting salary does not stretch very far when you deduct living expenses and perhaps \$1,000 per month for educational loan repayment.
- Every borrowed dollar costs at least \$1.50 to repay. The \$15 pizza bill that you pay with loan money as a student will cost \$27 in repayment 10 years later.
- Monitor expenses carefully and keep close track of credit purchases. Your credit history begins while you are a student.
- “Everyone should have a credit card — for emergencies — but emergencies seldom happen at the mall.”

She recommended a four-way plan for coping with and controlling debt:

1. Identify your goals.
2. Understand the impact and real cost of credit.
3. Borrow as little as possible.
4. Get good financial counseling. The Law School’s Office of Financial Aid provides financial management counseling. The Law

School also has one of the best debt forgiveness programs in the United States.

“The reason you’re here is to get your degree. Everything else should be secondary to that,” Gottschalk said.

“Live below your means,” she advised. “There’s a saying: Live like a professional in school, and you’ll live like a student afterward.”

A generous boon

Thanks to the generosity of an anonymous graduate, the Law School has significantly expanded its Debt Management Program. The revisions improve a program that long has been considered one of the most generous of its kind in the United States.

Here are the major changes:

- The program now allows a standard 10-year repayment period for federal loans.
- The annual available income level has been increased from \$32,000 to \$36,000.
- A smaller percentage of the graduate’s income is to be earmarked for debt repayment.
- The deduction from income increases for each year out of school.
- The deduction from income increases for each dependent child.
- New disbursement methods have made some disbursements non-taxable.

Many Law School graduates’ annual earnings are among the top in their profession. Other graduates, however, find personal and professional satisfaction in work that is less well remunerated. The obligation to repay educational loans may force these graduates to seek other, higher paying positions, or lead to disenchantment if they accept lower paying positions and must live with uncomfortable frugality in order to repay their loans.

The Debt Management Program is tailored to the needs of “those graduates who wish to take advantage of rewarding opportunities in the lower range of the pay scale,” according to the Financial Aid Office’s announcement of the revised program.

“We are elated with the benefit this anonymous donor has provided,” says Dean Jeffrey S. Lehman, ’81. “Our goal is to graduate top lawyers whose professional skills are matched only by their sense of social responsibility. But law school, indeed all of the best higher education, is expensive, and most graduates don a collar of debt along with their caps and gowns. This program, one of the most generous and flexible at any law school, makes it possible for students to choose the careers that will be most satisfying to them without regard to their educational loan debts.”

Applicants to the Debt Management Program must have graduated from the Law School no earlier than 1986. They must either be employed at least half-time in work that requires a J.D. or show special hardship. They also must not be delinquent or in default on their educational loans.

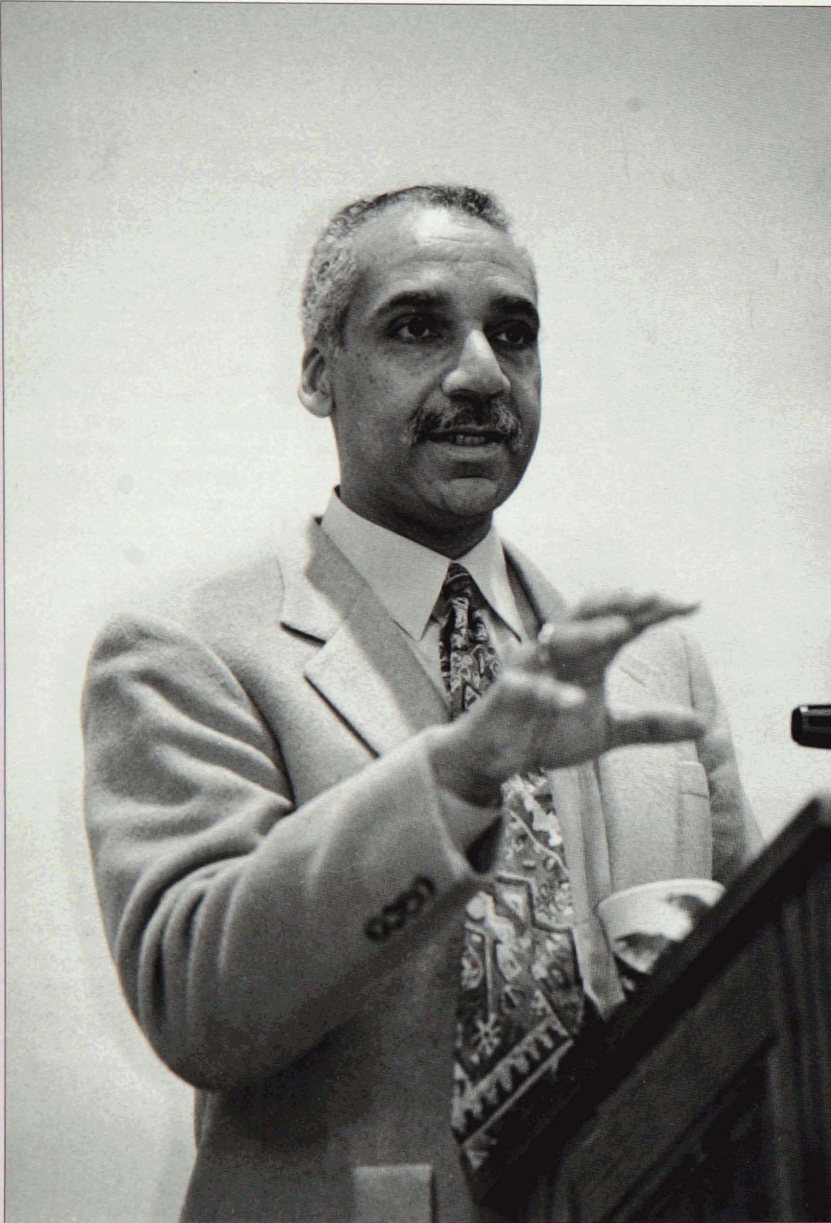
Judicial clerks are not eligible for the program during the period of their clerkships.



Orientation to service —

Orientation activities for new law students include a voluntary Community Service Day that allows future lawyers to lend their energy and skills to a variety of community organizations that welcome volunteers. As part of orientation for the fall term, Marisa Martin, below right, wheels a Glacier Hills Nursing Center resident to the beauty parlor while other students paint indoor spaces and work outdoors on landscaping. Painters are Mike Del Negro, Chris Brumm (a second-year service day volunteer leader), and David Crowe; landscapers are Courtney Martin, Jed Gordan, Nate Pusey, and Christine Gale. On this same day in September, other incoming law students worked in the Ann Arbor area at a residential treatment facility for substance abusers, a center for the reclamation and reuse of food, and a battered women's shelter; students also worked in Wayne and at a number of agencies in Detroit, including Gleaners Community Food Bank, NW Detroit Neighborhood Development, and St. Leo Soup Kitchen. The program is organized by the Office of Student Services and assisted by upper-level law student volunteers. Student organizations also perform service projects throughout the academic year. In early fall, there was a clothing drive to aid the Pine Ridge Indian Reservation, sponsored by the Native American Law Students Association (NALSA) and Women Law Students Association (WLSA) with co-sponsorship from the Asian Pacific American Law Students Association (APALSA), Black Law Students Alliance (BLSA), and Latino Law Students Association (LLSA); in December, BLSA, WLSA, and the Law Students in the Armed Forces Association sponsored a toy drive to aid the Toys for Tots program.





Saul Green, '72

Dr. Martin Luther King Jr. Symposium –

“I believe that hate crimes are unique,” Saul Green, '72, U.S. Attorney for the Eastern District of Michigan, explains during his keynote address at the Law School for the 13th annual Martin Luther King Jr. Day Symposium in January. Hate crimes are directed at an entire community, not just the victim, and carry the message that the victim should leave, said Green, the 1999 winner of the State Bar of Michigan Champion of Justice Award. Federal anti-discrimination and fair housing laws can be used against hate crimes, Green said. So can laws against actions like assaults and threats. But a unified approach that teams law enforcement with other local community agencies is necessary, he said. This is the approach of the Michigan Alliance Against Hate Crimes (MIAAHC), which Green helped form in 1998 and co-chairs. MIAAHC brings together 75 groups across Michigan to address hate crimes through law enforcement, education, data collection and analysis, and other measures that unite federal, state, and local agencies. Symposium Day events clustered on January 17, but the symposium also included associated events on other days. Associated Law School events included:

- *“The Incarceration of a Black Generation: Zero Tolerance Policies & Juvenile Incarceration,” a program presented by the Black Law Students Alliance. Speakers were Kary Moss, executive director of the American Civil Liberties Union of Michigan, and Ruth Zweifler, director of the Ann Arbor-based Student Advocacy Center.*

- *“Race and the Census,” a talk by National Asian Pacific American Legal Consortium staff attorney Deepa Iyer on “how inaccurate census data affects undercounted communities through the loss of federal funding for public services, political representation, and civil rights.” This talk was presented by the Asian Pacific American Law Students Association.*

Faculty members' work draws U.S. Supreme Court notice

IN THE
Supreme Court of the United States
OCTOBER TERM, 1998

ELOISE ANDERSON, Director, California Department of
Social Services, *et al.*, *Petitioners.*

—v.—

BRENDA ROE and ANNA DOE, on behalf of themselves and
all others similarly situated, *Respondents.*

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF FOR WILLIAM COHEN, MICHAEL C. DORF,
GERALD GUNTHER, RODERICK M. HILLS, JR., PAUL
KAHN, KENNETH L. KARST, SETH KREIMER, DOUGLAS
LAYCOCK, JEFFERY LEHMAN, FRANK MICHELMAN,
RICHARD PILDES, DONALD H. REGAN, STEVEN
SHRIFFRIN, GARY SIMSON, AND CHRISTINA
B. WHITMAN, *AMICI CURIAE, SUPPORTING RESPONDENTS*

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Donald N. Duquette was watching *Jenifer and Gary Troxel v. Tommie Granville* (99-138) long before the case drew national notice early this year as it neared argument before the U.S. Supreme Court. Duquette, director of the Law School's Child Advocacy Law Clinic and a national leader in the effort to protect children's rights, is one of the four writers of an *amicus curiae* brief that proposes a middle course in the case — acknowledgement of the parent's role as primary caregiver coupled with procedures to shift that role to someone else when appropriate.

Duquette is one of a number of Law School professors whose work is part of current or recently decided Supreme Court cases. Others are: Professor Evan Caminker; Thomas A. Green, the John Philip Dawson Collegiate Professor of Law; Professor Richard Friedman, whose research on the Confrontation Clause was cited by Justice David Souter and reported on last fall in *Law Quadrangle Notes*; and Professors Ronald J. Mann and Richard H. Pildes.

In addition, Mark D. Rosenbaum, general counsel of the ACLU in Los Angeles and a visiting professor at the Law School this winter term, represented the successful respondents in a case that included a brief drafted by Professor Roderick M. Hills Jr. and signed by a number of faculty members, including Dean Jeffrey S. Lehman, '81; Associate Dean for Academic Affairs Christina B. Whitman, '74; Pildes, and Donald H. Regan, the William W. Bishop Jr. Collegiate Professor of Law.

The *Troxel* case came to the Supreme Court from Washington State, where the Troxels successfully had brought action against Granville to visit her minor daughters, the children of their late son, who had committed suicide. Washington's Supreme Court overturned a state law that allows a judge to respond to a petition for visitation from "any person" by ordering a parent to take actions in regard to his/her children without investigating the person's relationship to the child. The brief, prepared on behalf of the National Association of Counsel for Children (NACC), agrees that the Washington law should be overturned — and then goes on to propose holding the pendulum to mid-swing. Duquette's co-authors are San Diego School of Law Professor Robert C. Fellmeth; UC-Berkeley School of Law Visiting Professor Joan Hollinger; and NACC Executive Director Marvin Ventrell.

"The NACC submits this *amicus brief* on behalf of the interests of children in having the law recognize and protect their significant relationships to the adults they have come

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to regard as members of their family," they wrote. "While this primarily entails protecting the fundamental rights of their parents to love, nurture, and raise them free from unwarranted state interference, it may occasionally call for state action to protect children's significant relationships with others, including grandparents and other relatives, stepparents, and unrelated *de facto* parents."

Say Duquette and his co-authors: "The constitutional doctrines most relevant here are both substantive and procedural due process, and this Court is being asked to consider the ways in which they operate within the context of state court actions initiated by private parties seeking a court order for visitation with a child over the objection of a custodial parent or parents. The statute that authorizes these private actions is overbroad in allowing 'any person' to commence an action without a preliminary inquiry into the nature, scope, or quality of the person's relationship to a child. It is also impermissibly vague, as manifest by its failure to define or set any limitation on 'visitation,' specify the factors that should be considered in making a best interests determination, or allocate the burden of proof for either an initial or a modification hearing."

However, they continue, "notwithstanding *amicus* NACC's support of judgment for the respondent, the Washington Supreme Court decision delineating 'parental rights' is overly broad in the opposite direction, and should not be adopted as written. The court below posits a superseding "parental rights" constitutional concept which would categorically bar the visitation rights of non-parents, including those who have historically performed as parents and who are regarded as such by affected children. . . .

"Moreover, a pendulum shift from 'anyone can invoke the courts to visit a child,' to 'no one except a parent can do so,' would bar court intervention where many states properly allow it, and would

be as harmful to the affected children as the statute challenged here."

■ **Caminker is counsel of record** and writer of an *amicus* brief for *State of Vermont Agency of Natural Resources v. United States of America ex rel. Jonathan Stevens*, which went to the Court last fall. Caminker argues for the respondent that "because a *qui tam* relator sues on behalf of the United States, her suit qualifies as a suit by the United States for purposes of the states' immunity waiver. Any requirement that the United States' interests be advanced only by executive branch officials would run counter to the framers' original understanding."

A constitutional law specialist, Caminker says that the states' "mutual concession" of waiving their own immunity to suits in order to retain the authority to sue each other was coupled with the states' agreement that they could be sued by the United States. Further, a private party can sue a state under the False Claims Act if the suit advances the interest of the United States. Indeed, he says, the Department of Justice can take over the suit and proceed with it if department officials choose to.

"Petitioner Vermont maintains that the United States essentially forfeited its sovereign status by choosing a private rather than public champion of its interests," he wrote in the brief, filed on behalf of the group Taxpayers Against Fraud. "Notwithstanding Petitioner's protest, . . . the mere fact that *qui tam* suits involve a private plaintiff in some sense cannot, without more, bar the suit; immunity doctrine does not track a bright-line distinction between public and private litigants."

■ **Green's groundbreaking book on the history** of the English criminal trial jury, *Verdict According to Conscience* (1985), was cited in the 1999 term Supreme Court decision in *Jones v. United States*. Green's chapter, "The English Criminal Trial Jury," in *The Trial Jury in England, France, Germany 1700-1900* (A. Schioppa, ed., 1987), also was cited. "The case turns on whether the federal carjacking statute, 18 U.S.C. §2119, as it was when petitioner was charged, defined three distinct offenses or a single crime with a choice of three maximum penalties, two of them

depending on sentencing factors exempt from the requirements of charge and jury verdict," Justice David Souter wrote for the majority. "We think the better reading is of three distinct offenses, particularly in light of the role that any interpretive uncertainty should be resolved to avoid serious questions about the statute's constitutionality."

Souter cited Green's work as source material for his account of English juries' response "when the circumstances of a prosecution pointed to political abuse of the criminal process or endowed a criminal conviction with particularly sanguinary consequences. This power to thwart Parliament and Crown took the form not only of flat-out acquittals in the face of guilt but of what today we would call verdicts of guilty to lesser included offenses, manifestations of what Blackstone described as 'pious perjury' on the jurors' part."

"A second response to the juries' power to control outcomes occurred in attempts to confine jury determinations in libel cases to findings of fact, leaving it to the judges to apply the law and thus to limit the opportunities for juror nullification," Souter wrote. "Ultimately, of course, the attempt failed, the juries' victory being embodied in Fox's Libel Act in Britain, see generally T. Green, *Verdict According to Conscience* 318-355 (1985)."

■ **Mann's article on secured debt**, "Strategy and Force in the Liquidation of Secured Debt," 96 *Michigan Law Review* 159 (1997) was cited by Souter in his opinion for the Court in *Bank of America National Trust and Savings Association v. 203 North LaSalle Street Partnership*, No. 97-1418, decided last May. "The issue in this Chapter 11 reorganization case is whether a debtor's pre-bankruptcy equity holders may, over the objection of a senior class of impaired creditors, contribute new capital and receive ownership interests in the reorganized entity, when that opportunity is given exclusively to the old equity holders under a plan adopted without

consideration of alternatives," Souter wrote. "We hold that old equity holders are disqualified from participating in such a 'new value' transaction by the terms of 11 U.S.C. §1129 (b) (2) (B) (ii), which in such circumstances bars a junior interest holder's receipt of any property on account of his prior interest."

Souter's citation of Mann's work was part of the Court's consideration of the role of prior equity: "Although we have some doubt about the Court of Appeals' assumption . . . that prior equity is often the only source of significant capital for reorganizations . . . old equity may well be in the best position to make a go of the reorganized enterprise and so may be the party most likely to work out an equity-for-value reorganization."

■ **Pildes, whose work on congressional districting** has been regularly cited by the Court in the past, was cited in *Governor of North Carolina, et al. v. Martin Cromartie, et al.*, No. 98-85, which involved North Carolina's Twelfth Congressional District. Pildes was of counsel to the State of North Carolina in the case.

In a narrowly construed opinion that rejected the lower court's decision to grant summary judgment in the redistricting case, Justice Clarence Thomas noted that "this is the third time in six years that litigation over North Carolina's Twelfth Congressional District has come before this Court." Justice John Paul Stevens, joined by Justices David Souter, Ruth Bader Ginsburg, and Steven Breyer, referred to Pildes' work as part of their concurring opinion. The citation occurred in Stevens' discussion of the growing trend of southern Democrats to vote for Republican candidates. "This voting pattern has proven to be particularly pronounced in voting districts that contain more than about one-third African American residents. See Pildes, 'The Politics of Race, 108 *Harvard Law Review* 1359, 1382-1386 (1995)." The case was decided last May.

■ **Rosenbaum represented the winning respondents** in *Rita L. Saenz, Director, California Department of Social Services, et al., v. Brenda Roe and Anna Doe, etc.*, No. 98-97, which was argued and

decided during the Court's 1998 term and decided in May 1999. **Caminker** assisted in the case, and an *amicus* brief on behalf of respondents carried the names of **Lehman, Whitman, Hills, Pildes and Regan** among the 15 signatories.

The case considered the constitutionality of California's restriction of newly arrived welfare recipients to the level of benefits they would be eligible for in the state they had left. The case also challenged the durational requirement that was part of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

The issue, the Court said in an opinion written by Justice John Paul Stevens, is "the right of the newly arrived citizen to the same privileges and immunities enjoyed by other citizens of the same state. That right is protected not only by the new arrival's status as a state citizen, but also by her status as a citizen of the United States."

In the *amicus* brief, which Hills drafted, the Law School faculty members joined 10 other law professors to address "the ingredients of our complex federal structure that we believe are significantly implicated by state laws imposing length of residence restrictions. From our perspective, this case is primarily about intrastate equality irrespective of one's former non-residency in the state, which is implicit in the structure of national and state citizenship and reflected textually in the Privileges and Immunities Clause of Article IV, Section 2 and the Citizenship Clause of the Fourteenth Amendment."

New fund supports professors' research, writing

Five Law School professors are beneficiaries of Elkes Fund leaves for part of this academic year to do research and to write. The leaves free professors from teaching duties for one semester to allow them to concentrate on writing and research.

Three professors used Elkes Fund leaves during the fall term. The faculty members and their projects were:

■ Professor Merritt B. Fox, to write a journal article on the Security and Exchange Commission's proposed reworking of disclosure regulation. Fox also is director of the Center for International and Comparative Law.

■ Bruce Frier, the Henry King Ransom Professor of Law, to write a casebook on the Roman law of the family.

■ Professor Sallyanne Patyon, to write a journal article about the role of government databases in sustaining the segregation that was the subject of the U.S. Supreme Court case of *Shelley v. Kraemer*.

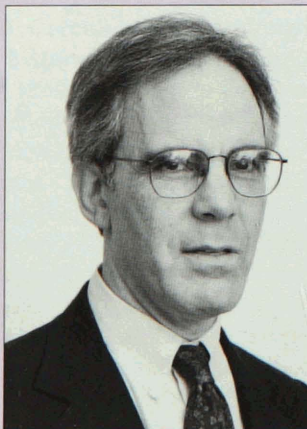
Two faculty members are using the leaves this spring term:

■ Professor James C. Hathaway, to continue work on a book about the rights of refugees under international law.

■ Joseph Vining, the Harry Burns Hutchins Collegiate Professor of Law, to continue work on a book about the law's response to totalizing claims on behalf of science.

Terrence A. Elkes, '58, national chair of the Law School Campaign, and his wife, Ruth, launched the Elkes Fund in 1998 with a \$5 million challenge grant "to stimulate a new faculty support fund that will help attract and retain the world's finest legal minds." Their challenge helped to continue the momentum of the seven-year Law School Campaign, which ended in 1997 and raised more than \$91 million. The Law School Campaign was, said Dean Jeffrey S. Lehman, '81, "the most successful fundraising drive ever completed by a public law school."

FACULTY



Night school —

Over a two-night period in October, the Black Law Students' Alliance and Law Students for Affirmative Action jointly presented "Night School: The Missing Dialogue," a program of four sessions taught by Law School faculty. Below, right, Samuel R. Gross, the Thomas G. and Mabel Long Professor of Law, presented a session on "Race and Character in Evidence," and, at near left, Kirkland and Ellis Professor of Law Phoebe Ellsworth presented a class in "Race, Gender, Testing, Law School and Beyond." In the second evening of classes, above, Professor Roderick M. Hills Jr., taught a session on "Race in K-12 Education: Racial Classifications and Redistricting," and at far left, Professor Deborah Malamud taught a class in "Class-based Affirmative Action: Where does it stand?" Sharing Malamud's session was Wendy Waggenheim, of the American Civil Liberties Union, who spoke on "The School Voucher Movement and Public Education."

American legal education through the Japanese prism



Carl E. Schneider, '79

Carl E. Schneider, '79, the Chauncey Stillman Professor of Ethics, Morality, and the Practice of Law, says American legal education seeks to produce lawyers who can

- “solve their client’s problems;”
- invent “new ways of structuring deals” and “new social and governmental forms;”
- and who are “masters of legal analysis” with “critical,” “agile,” and “insightful” minds.

Schneider outlined these objectives in his talk “On American Legal Education” on the occasion of the 100th anniversary of the University of Kyoto Faculty of Law. Schneider, who has taught at Kyoto several times as part of the Law School’s longstanding relationship with the Japanese law school, spoke there in June as part of its symposium “Reform of Japanese Legal Education.”

“I might best contribute to your festivities by describing and explaining one of the systems of legal education you may wish to scrutinize — my own,” Schneider said. American legal education is “unusual,” he added. “We differ in several crucial respects from most of the world.”

“Americans see law as a social tool,” he explained. “Law, to us, is not primarily a system of principles; it is a set of powers and rules that can be used to make society work better.”

Worldwide, legal educators agree that law schools cannot turn out finished lawyers and mostly leave “practical training to practical people in practical settings. Where America stands almost alone is in its view of the other two components of legal training. American law schools do not primarily seek to inculcate a thorough command of ‘the law.’ Rather, they principally seek to teach students to ‘think like a lawyer.’”

The second distinguishing characteristic of American legal education is “that it is taught Socratically more than through lectures.” Learning to reason well takes practice, Schneider said. “The purpose of Socratic teaching is to give students that practice — day after day for three years — by compelling them to think like a lawyer under the guidance of an experienced legal analyst. Each class is an exercise in building and criticizing legal arguments by actually grappling with the hardest questions the legal system presents.”

Third, American legal education is unusual because it is a graduate education that follows undergraduate work. American law students are older than their counterparts in most other countries, have more formal education, and often bring professional experience to their legal schooling. “Law is about how the world works; the more students understand of that, the better,” Schneider concluded.

“You will, of course, be the soundest judges of whether any part of my system might interest you as you re-examine yours. . . . Altering a successful system is always a perilous enterprise that demands persuasive reasons,” Schneider said.

“But let me close by suggesting one: I believe that we — American law professors and our students — have more fun that our counterparts around the world. For us, every class is an adventure on which we embark together into a disciplined, rigorous, and inspiring inquiry into some of the most important questions human beings can ask themselves. What more could we ask?”

Andoni joins Detroit-based clinic



Laura B. Andoni

Laura B. Andoni has joined the Law School’s Legal Assistance for Urban Communities Clinic as a clinical assistant professor. She earned her B.A. at Miami University and her J.D. at Wayne State University Law School, where she was a member of the national moot court team and earned honors in legal research and writing.

Andoni previously was a member of Adkison, Need, Green, Allen and Schneider P.L.L.C. in Detroit, where she provided general real estate counseling and advised closely-held businesses. She also has worked as a research assistant for a number of faculty members at Wayne State University Law School and as an intern for the Hon. Marilyn Jean Kelly of the Michigan Court of Appeals.

In 1999 she spoke throughout Michigan on “The New Michigan Preservation Tax Credits: Are They for You?” for the Michigan Historic Preservation Network and the State Historic Preservation Office.

Terrance Sandalow



A slave to no ideology, a champion of the probing, thought-provoking question, the superb listener whose questions add immeasurably to the discussion — all describe Terrance Sandalow, the Edson R. Sunderland Professor of Law. After more than 30 years on the faculty, and dean from 1978-87, Sandalow has retired from active teaching.

One of the Law School's 'very best teachers'



Francis Allen, Sandalow's former teacher who later became his colleague, commended Sandalow's "pervasive and intelligent skepticism of ideology."



Dean Jeffrey S. Lehman, '81: "With your retirement the Law School is really losing one of its very best teachers."



Former Law School faculty colleague Joe Sax, now at Boalt Hall School of Law, University of California at Berkeley, described Sandalow as "a good listener and a good reader and a good and serious friend."



Son Mark Sandalow, Washington-based political writer for the San Francisco Chronicle: "My brother and sister and I all love our work, and my father taught us that. Thank you for showing us how a devoted family man can lead a successful career."



Former Sandalow student and now Associate Dean for Academic Affairs Christina B. Whitman, '74: "It is because of Terry that I went into teaching."

PHOTOS BY PAUL JARONSKI/UNIVERSITY PHOTO SERVICES

One hundred family members, friends, colleagues, and well wishers gathered at the Lawyers Club Lounge in December to dine with Sandalow and celebrate his career. From humorous anecdotes to heartfelt expressions of friendship, it was an evening filled with insights into the man behind a distinguished career.

"We are not here to celebrate the retirement of Terry," said Francis Allen, like Sandalow, a former dean of the Law School, and also at one time Sandalow's law professor. "Quite the contrary. We are here to celebrate his career."

Sandalow's son Mark, a Washington, D.C.-based political writer for the *San Francisco Chronicle*, recalled the "academic version of Outward Bound" that characterized growing up in the Sandalow household. Other kids got balloons and clowns on their birthdays, he grouched. "I sat across the table as my father tossed out legal paradoxes."

University President Lee C. Bollinger, also a former dean of the Law School, could not attend, but sent a communication to be read at the celebration. "Terry, I think you know, but I want to say explicitly, that you played a central and defining role for those of us who joined the faculty in the late 1960s and '70s," Bollinger said. He described Sandalow as "absolutely dedicated to ideas, forever in search of ways of understanding fundamental principles and values, always skeptical yet sure that reason can assist and, in any event, is our surest guide, and patiently ready to initiate each new

generation of students and faculty into the joys, burdens, and responsibilities of serious intellectual life."

"This is what you meant to us, what we wanted in you as our dean, and what you have given us at every moment," Bollinger said. "You can't ask for more of a colleague and dean, and I'm forever grateful."

"With your retirement, the Law School is really losing one of its very best teachers," said Dean Jeffrey S. Lehman, '81. "During my time as dean, I have always felt free to approach you for precise and wise counsel."

The Law School is "a place where ideas matter," Sandalow said with appreciation. Life at the Law School has been "a long-running seminar not only in the law but also in all the subjects that go with those who are involved in the intellectual life."

A decorative vase was one of the Law School's gifts to retiring Professor Terrance Sandalow, who served for 34 years on the faculty and as dean from 1978-87, and his wife, Ina. Terrance Sandalow also received a football — a testament to his well-known lack of enthusiasm for football — on which are the words: "To Terry Sandalow from the Law School Team."



The Sandalow Family: David, Mark, Judith, Ina, and Terrance.

ACTIVITIES

During the fall, Assistant Professor **Omri Ben-Shahar** presented the paper "The Erosion of Rights by Past Breach" at the law schools at the universities of Georgetown and Toronto and the paper "On Compensation and Information: The Strategic Structure of Remedies for Breach of Contract" at the University of California at Berkeley Law School, Boalt Hall, as well as at the annual meeting of the Canadian Law and Economics Association.

Professor **Evan Caminker** in January took part in a debate before the national chapter of the Federalist Society for the Study of Law and Public Policy that centered on *U.S. v. Morrison*, a case concerning the constitutionality of the Violence Against Women Act that the U.S. Supreme Court is hearing this term. He also wrote an *amicus* brief in the federalism case *Vermont Agency of Natural Resources v. United States ex rel. Stevens*, which is before the U.S. Supreme Court. (See related story on page 37.) In December, he spoke to the Federalist Society chapter at Yale University. He also took part in the symposium "Restructuring Federal Courts" at the University of Texas at Austin Law School, and, in February, participated in the conference "Federalism After *Alden v. Maine*" at Loyola University (Los Angeles) Law School.

David L. Chambers, the Wade H. McCree Jr. Collegiate Professor of Law, has been named co-chair of the new Association of American Law Schools Task Force on Diversity in Law School Admissions. Chambers is a member of

AALS' Executive Committee.

Affiliated Overseas Faculty member **Christine Chinkin** has been awarded a \$100,000 research and writing grant by the MacArthur Foundation for the project "Feminist Analysis of International Dispute Resolution"; she will work with Hilary Charlesworth of the Centre of International and Public Law, Australian National University. Chinkin also gave the keynote speech at the United Nations Division for the Advancement of Women's judicial colloquium on the application of international human rights law at the domestic level.

Rebecca S. Eisenberg, the Robert and Barbara Luciano Professor of Law, was interviewed on National Public Radio's *All Things Considered* in November.

Kirkland and Ellis Professor of Law **Phoebe Ellsworth** delivered the Distinguished Scientist Address to the New England Psychological Association in October. She spoke on "Where We Are and What We Feel: Emotion, Status, and Culture."

Thomas A. Green, the John Philip Dawson Collegiate Professor of Law, is serving a two-year term as president of the American Society for Legal History (ASLH). He continues as co-editor of *Studies in Legal History*, the book series sponsored by the ASLH and published by the University of North Carolina Press. On sabbatical during calendar year 2000, he is working on a book tentatively titled *Conventional Morality and the Rule of Law:*

Perspectives on Freedom, Responsibility and the American Criminal Trial Jury, 1870-Present.

Assistant Professor **Daniel Halberstam** is serving on the advisory board of the University's Center for European Studies.

Professor **James C. Hathaway** delivered the keynote address, "Why the U.S. Needs the UN," at the United Nations Day celebration in Ann Arbor. He presented a training course for government officials and advocates in Moscow in October and at the annual training institute of the European Council on Refugees and Exiles in Budapest in November. During the fall he also delivered a paper co-authored with Law School student Anne Cusick, "Refugee Rights Are Not Negotiable," at the Georgetown University Conference on the Supreme Court and Immigration and Refugee Law. In September, he spoke on "America, Defender of Democratic Legitimacy?" at a conference on "The Role and Limits of Unilateralism in International Law" held at the Law School under joint sponsorship of the Center for International and Comparative Law and the *European Journal of International Law*.

Poisoning the Minds of the Lower Orders (Princeton University Press, 1998), by Professor **Don Herzog**, has won an honorable mention award from the Professional/Scholarly Publishing Division of the Association of American Publishers.

In December, Professor **Robert Howse** took part in a panel discussion on restorative justice and multiculturalism at the International Metropolis

Conference in Washington, D.C., and attended the inaugural conference of WEDGENET, the international research network on labor policy and globalization, at the University of Wisconsin at Madison. In November, he also visited the University of Wisconsin to present an updated version of his paper, "The Legitimacy of the WTO," that he had presented in June at a workshop of the United Nations University project on the legitimacy of international institutions in Geneva, Switzerland. Also in November, he presented a paper co-authored with Jennifer Llewellyn, of the South African Truth and Reconciliation Commission, at the University of Edmonton Law School. In October, he was a panelist/commentator for a conference on regulatory competition in the United States and the European Union at Yale Law School, and presented the paper "Choice of Forum and Choice of Law in WTO and NAFTA Dispute Settlement" at a conference on dispute settlement in international trade sponsored by Harvard University's Center for International Affairs. In September, he presented the paper "The Product/Process Distinction: An Illusory Basis for Disciplining Unilateralism," co-authored with **Donald H. Regan**, the William W. Bishop Jr. Collegiate Professor of Law, at a Law School symposium

sponsored by the Center for International and Comparative Law and the *European Journal of International Law*. Last June, he presented a paper that he co-authored on the WTO and labor rights at a workshop of the Ford Foundation Project on Globalization and Labor Rights in Geneva, Switzerland. He also was a panelist for a symposium on law teaching and emotion at the annual meeting of the Canadian Association of Law Teachers in June in Sherbrooke, Quebec, and testified on international trade dispute settlement issues before a subcommittee of the Canadian Parliament in Ottawa.

Richard O. Lempert, '68, the Francis A. Allen Collegiate Professor of Law, is the sole member of University President Lee Bollinger's Advisory Committee on the Life Science Initiative who is not a life science researcher. At the president's request, Lempert is developing a program in the Life Sciences, Values, and Society. Says Lempert: "The program will involve interdisciplinary efforts to examine the effects of the revolution that is occurring in the life sciences on society and to engage humanists, social scientists, and others to reexamine the ramifications of what is happening in the life sciences for their disciplines, and to bring their knowledge to bear on issues relating to the life sciences and to the impact of their practices and discoveries on society."

Clinical Assistant Professor **Rochelle Lento**, director of the Legal Assistance for Urban Communities Clinic, is editor-

in-chief of the ABA's *Journal on Affordable Housing & Community Development Law*.

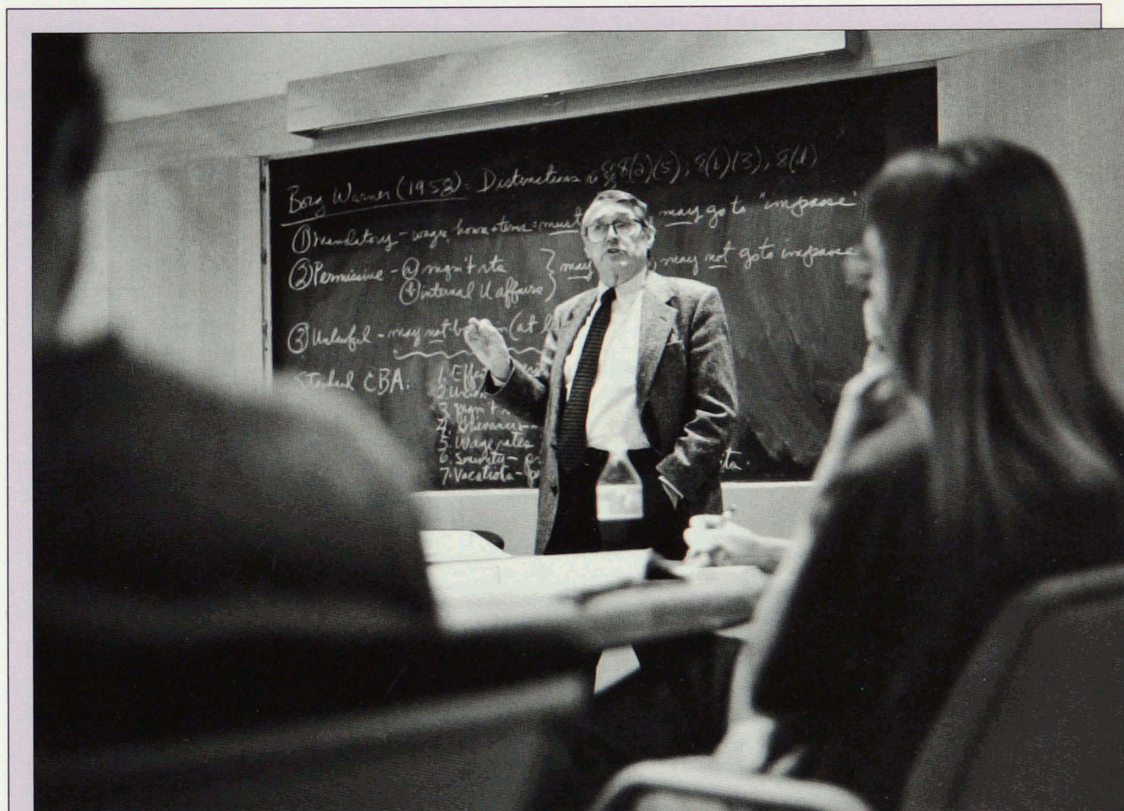
Professor **Ronald J. Mann** gave three academic talks in September: on electronic payments policy to the Michigan alumni breakfast in Grand Rapids in connection with the annual meeting of the Michigan State Bar; on

verification institutions at the annual meeting of the International Society of New Institutional Economics; and on electronic payments at a symposium on electronic payments at the School of Information at the University of Michigan.

Professor Emeritus **John Reed** spoke on professionalism

in November at the Seventh Annual Bench/Bar Conference of the Dayton Bar Association, Dayton, Ohio; in October for the State Bar of Michigan's Board of Commissioners Retreat at Gaylord; in September at the Celebrezze Inn of Court, Cleveland, and the Detroit College of Law at

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Collective effort —

At first, only employers were obligated to bargain and it was not until passage of the Taft Hartley Act in 1947 that both employers and unions were required to take part in collective bargaining to settle labor disputes, Theodore J. St. Antoine, '54, tells a class in collective bargaining sponsored by the Employment and Labor Law Association (ELLA). St. Antoine, the James E. and Sarah A. Degan Professor Emeritus of Law, is president of the National Academy of Arbitrators. The evening noncredit class, held at the Law School in November, offered a single-session look at the law and practices of collective bargaining. In the winter term, St. Antoine is teaching a three-class noncredit session on arbitration for ELLA. Earlier in the fall term, in October, ELLA presented a talk on "Labor Law in Europe" by Rolf Birk, co-director of the Institute for Labor Law and Industrial Relations at the University of Trier in Germany and an advisor on labor matters to the European parliament in Strasbourg.

FACULTY

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Michigan State University Inn of Court, Lansing; and in June at the 59th Conference of the Sixth Circuit Judicial District of the United States, Traverse City. He also serves as chair of the State Bar of Michigan's Standing Committee on Judicial Selection, and is a member of the Michigan Supreme Court Advisory Committee on Rules of Evidence. During spring 1999 he served on the advisory

committee to U.S. Sen. Carl Levin, D-MI, on nomination of U.S. District Judges for the Eastern District of Michigan.

Professor **Mathias Reimann**, LL.M. '83, spoke on "An International Court of Jurisdiction: A Modest Proposal to Resolve the Dilemmas of Concurrent International Civil Litigation" in October at the American University Washington College of Law.

Clinical Professor of Law **Paul D. Reingold**, director of the Law School's clinical office, spent the fall term as a visiting professor of law at the University of Salamanca Law School in Spain, where he worked with faculty members and researchers in the procedural law department; he studied Spain's penal system, especially the Vigilance Courts that have supervisory powers

over operation of the prisons, visited the courts, met with lawyers and judges, and shared American ideas about clinical legal education with colleagues. During the summer, he attended Gerry Spence's Trial Lawyer's College in Wyoming. In May and June, he taught An Introduction to American Law at Kwansai Gakuin University Law School in Japan. He also gave talks to the faculty on trends in U.S. legal education and to the Osaka Bar Association on issues associated with jury trials in Japan.

Assistant Dean for Clinical Affairs **Suelyn Scarnecchia**, '81, who also is clinical professor of law, was a panelist for the Association of American Law Schools' Workshop for Women in Legal Education in New York City in October.

Theodore J. St. Antoine, '54, the James E. and Sarah A. Degan Professor Emeritus of Law, in January received the Distinguished Service Award from the Labor and Employment Law Section of the Michigan State Bar. Two of the three prior recipients of the award also are Law School graduates: Theodore Sachs, '51, and William M. Saxton, '52. St. Antoine also has been named by the Michigan Supreme Court to a three-year term on the nine-member Attorney Discipline Board. The court-appointed board, made up of six attorneys and three non-lawyers, is the adjudicative branch of the Supreme Court for reviewing matters involving the discipline and reinstatement of Michigan attorneys.

Eric Stein, '42, the Hessel E. Yntema Professor Emeritus of Law, introduced and served as commentator for a talk by



Taking careful aim —

"The key to good lawyering is to fully put yourself into the shoes of the people you oppose," Assistant Professor Sherman Clark explains during a midday program on "Litigation Against Gun Makers," presented in November under the sponsorship of the Office of Student Services. Clark, a consultant to the City of Detroit and its attorneys in their suit against gun makers, outlined the suit's claims that weapon manufacturers' "negligent distribution" practices — oversupplying some dealers while knowing that the excess will find its way to illegal users — and "willful blindness" of refusing to track how their products may be used make gun makers liable for damages their products may cause. "Gun makers, unlike any other producers, claim to have no information on the end use of their products," he said. The way to be successful in such a suit is to find the position that gun owners and gun users both can support, Clark said.

Justice Vojtech Cepl, a research scholar at the Law School in 1968, at Washington University Law School in St. Louis in October. In November, Stein chaired the panel on "The European Union in Geopolitical Context" for the conference "The Euro: A New Currency for a New Millennium," held at the University of Michigan's International Institute. Professor **Robert Howse** was a member of the panel and spoke on "The Euro: The basis for a European Identity?"

Robert A. Sullivan Professor of Law **James J. White**, '62, lectured in New York for the Association of Commercial Finance Attorneys Inc. on the process of revising Article 2 of the Uniform Commercial Code in November. In January, he discussed ways of doing scholarly research at a workshop at the University of Virginia. He also continues work on the drafting committees of the National Conference of Commissioners on Uniform State Laws on Article 2-Sales, Article 2A-Leases, and Article 1-General Provisions.

VISITING FACULTY

Roberta Morris was a faculty member for the Practicing Law Institute program "Patenting the New Business Model: Building Fences in Cyberspace" in February in New York. She appeared last summer as Cookie in the Ann Arbor Civic Theater production of Neil Simon's "Rumors," and won honorable mention for her poem "Clothes" in the first annual poetry and short fiction contest sponsored by Ann Arbor's *Current* magazine.

Law School faculty add to AALS programs

University of Michigan Law School faculty members were significant contributors to the five-day annual meeting of the Association of American Law Schools (AALS) at Washington, D.C., in January. Members of the Law School community — the Law School is a charter member of AALS — provided support in many ways: by helping to plan the meeting, whose theme was "A Recommitment to Diversity," as well as serving as frequent speakers in the lineup of discussions that filled the agenda.

Here's a rundown on the roles that Law School faculty members played during the January 5-9 meeting:

■ David L. Chambers, the Wade H. McCree Jr. Collegiate Professor of Law, discussed "Our Colleagues at the Bar: Learning from Law Graduates" as part of the session "Looking Inward, Looking Outward: Innovative Research on Legal Education." He also spoke on "Minority and White Alumni 1990-1996" at the breakfast for graduates that the Law School hosted in conjunction with AALS' annual meeting. Chambers served on AALS' executive committee through 1999, chairs its Commission on *Pro Bono* and Public Service Opportunities, and co-chairs the association's Task Force on Racial Diversity.

■ Rebecca S. Eisenberg, the Robert and Barbara Luciano Professor of Law, spoke on "Teaching Complexity" as part of the series of sessions on "The Impact of Technology on Law and Legal Culture."

■ Dean Jeffrey S. Lehman, '81, spoke on "Lawyers as Leaders" at one of the sessions that examined "major issues of the 21st century: their impact on the legal academy and our students." Lehman also serves on AALS' Committee on Academic Freedom and Tenure.

■ Clinical Assistant Professor Rochelle E. Lento, director of the Law School's Detroit-based Legal Assistance for Urban Communities Clinic, spoke on "Economic Development" as part of the series of sessions dealing with "the evolution of clinical skills."

■ Elizabeth Long Professor of Law Catharine A. MacKinnon was a speaker for the examination of "What *Brown* Should Have Said." The program's aim was "to rethink the premises of *Brown* and the American law of equality" and "to see how and whether contemporary theories about constitutional interpretation and constitutional equality can deal adequately with the problems presented in that most canonical of cases in American constitutional law."

■ Assistant Dean for Clinical Affairs Suellyn Scarnecchia, '81, serves on the AALS' Committee on Section and Annual Meeting.

■ Professor Jane S. Schacter was a speaker for the discussion of "Teaching Legislation Through Different

Lenses." The session was designed to "explore different ways of teaching legislation — from the perspectives of legislative process, statutory interpretation, separation of powers, the case study, and the clinic."

■ Associate Dean for Academic Affairs Christina B. Whitman, '74, who represents the Law School in AALS' 2000 House of Representatives, was a speaker for the session "A Check-Up on the State of *Mt. Healthy* and Mixed Motive: Broad-Spectrum Absolute Defense, or Claim-Specific Limitation on Liability." Speakers examined the impact of the Civil Rights Act of 1991 on the mixed motives problem in civil rights and employment discrimination cases; Whitman explored whether the substantive Equal Protection doctrine can or should mesh with the concept of a complete defense for the mixed motive defendant.

■ Assistant Dean for Development and Alumni Relations Kathy A. Okun moderated the panel discussion of "Planned Giving Fact Scenario — Solutions Your Donor Can Use," one of the programs focusing on "law school advancement: sharing ideas for success."

A look at capital punishment

When she founded the Illinois Capital Center to defend suspects in death penalty cases, Andrea Lyon could not foresee that within 10 years the then-scattered opposition to capital punishment would swell to a chorus.

International pressure, the reversal of a growing number of capital crime convictions, and people speaking out against execution have created significant pressure against the death penalty, Lyon, a clinical assistant professor of law, explained as she opened an Amnesty International program at the University of Michigan in November. "There is a lot of movement to stop executing people," she said.

The three most-often-heard arguments in favor of capital punishment have been disproved, she said:

1. Proponents have argued that the death penalty has a deterrent effect on the commission of capital crimes, but studies have shown that this is not true. "Actually, murders go up 1-2 percent when there is an execution."

2. Execution is not cheaper than life imprisonment. The special care taken by both sides in a capital case raises the cost. It costs an average of \$8 million to fight a capital case; in comparison, it costs about \$600,000 for a case involving a life sentence without parole.

3. Religious groups and other opponents debunk the idea that survivors of victims need the sense of retribution that capital punishment provides.

Lyon made her remarks as she introduced Jeanne Bishop, a criminal defense attorney who is a member of Murder Victims' Families for Reconciliation. Bishop, whose sister and brother-in-law were shot to death by a teenager, said she and her family oppose execution. "We couldn't imagine widening that circle of bloodshed that began with my sister," she explained. The killer, too young at the time of the crime to be executed for it, received the maximum sentence of life without parole.

Lyon is using her experience and contacts in the field of death penalty

defense to organize and coordinate the Clarence Darrow Death Penalty Defense College, to be held at the Law School May 20-25. "The greatest challenge a defense lawyer can face is representing someone who is facing the death penalty," according to the program for the college. "The Clarence Darrow Death Penalty Defense College teaches the skills, knowledge, and insights needed to face this challenge. Instruction includes lectures, demonstrations, and, importantly, small group workshops where participants work on their actual cases."

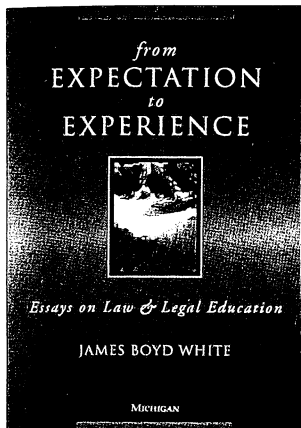
Enrollment is limited to defense lawyers with pending capital cases. Faculty for the college is composed of capital defense attorneys and experts from throughout the United States, among them Stephen Bright, director of the Southern Center for Human Rights, and Bryan Stevenson, executive director of the Equal Justice Institute in Montgomery, Alabama.

For more information, see www.law.umich.edu/darrow/index.htm



Visitors from Japan —

Assistant Professor Mark West, speaking in Japanese, welcomes a delegation of 11 lawyers from the Japan Federation of Bar Associations to the Law School in November. West, who has practiced law and taught law in Japan, directs the Law School's Program in Japanese Law. Virginia Gordan, assistant dean of international programs and administrator of the Law School's Center for International and Comparative Law, also welcomed the lawyers. Visiting professor Takashi Maruta, from Kwansai University in Japan, translated her remarks into Japanese. After this breakfast/reception, the visitors toured the Law School and met with Professor Richard O. Lempert, '68, and Clinical Assistant Professor Nick Rine. The visiting delegation was headed by Masayoshi AOKI, vice chairperson of the committee on judicial reform of the Japan Federation of Bar Associations. On one day during their visit, the Japanese attorneys watched Law School clinic students engage in a mock trial in the moot courtroom at the Law School. On another day they visited Wayne County courts in Detroit as cases were tried there.



From Expectation to Experience

James Boyd White, the Hart White Professor of Law, sets out two themes for his newest book, *From Expectation to Experience: Essays on Law and Legal Education*, published by The University of Michigan Press in late 1999:

■ That "law can usefully be regarded not only as a set of rules and incentives designed to produce results in the material and social world, but also as an imaginative and intellectual activity that has as its end the claim of meaning for human experience, individual and collective."

■ And "that education is the constant modification of expectation by experience."

White tracks those themes through the book's 12 essays, whose titles range from "Rhythms of Hope and Disappointment," "Doctrine in a Vacuum," and "Law Teachers' Writing," to "How Should We Talk about Corporations?" and "Reading, Hope, and *Planned Parenthood v. Casey*." In many ways, they all lead to the final chapter, "Meaning in the Life of the Lawyer."

To White, law is "an activity of the whole mind," not "a merely logical enterprise" or "a matter of theory or politics or power."

He writes: "My perspective throughout is internal to the law: it is not so much what we as a society can expect of law as an instrument for the solution of social problems that concerns me as what we, as individual people engaged with the law, can expect of ourselves and others as we do this work. The central question addressed in each of these essays is what kind of imaginative and expressive life the law offers, first to its practitioners, and then to the rest of us, as we live in the world of meaning it defines."

Visiting, adjunct faculty

enrich Law School offerings

Visiting and adjunct faculty members add to the depth and variety of course offerings and contribute in many other ways to life at the University of Michigan Law School. Some are practicing attorneys who add their hands-on experience to academic discussions; others are renowned professors at other law schools or in academic disciplines that help enrich and expand the study of law. Each visitor brings a special presence to the Law School.

Information on most fall term visitors and those who are teaching at the Law School during the entire 1999-2000 academic year appeared in the fall 1999 issue of *Law Quadrangle Notes* (pages 50-52). Here are the winter term 2000 visiting and adjunct faculty:

Elizabeth M. Barry, '88, is associate vice president and deputy general counsel in the Office of General Counsel of the University of Michigan. She was previously director of Academic Human Resources for the University and was a university attorney for Harvard. She also has taught at Harvard University Graduate School of Education. At the Law School, she is teaching Higher Education Law.

P.E. Bennett, '76, an assistant defender in the State Appellate Defender's Office, is co-teaching Criminal Appellate Practice with Valerie Newman (see below). He earned his bachelor's and master's degrees at the University of Michigan, and has represented clients in hundreds of appeals at all levels of state and federal courts, including the Michigan Supreme Court.

G. Robert Blakey is the William J. and Dorothy O'Neal Professor of Law at Notre Dame Law School. He has been a professor at Cornell Law School and director of the Cornell Institute on Organized Crime; a prosecutor with the Organized Crime and Racketeering Section in the U.S. Department of Justice; consultant to the President's Commission on Law Enforcement and Administration of Justice; chief counsel for the Subcommittee on Criminal Laws and Procedures of the U.S. Senate; chief counsel/staff director of the House Select Committee on Assassinations, which investigated the assassinations of President John F. Kennedy and Dr. Martin Luther King Jr.; a reporter for the American Bar Association Project for Minimum Standards in Criminal Justice; Electronic Surveillance;

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Visiting, adjunct faculty

Continued from page 49

and a presidential appointee to the National Commission on the Review of Federal and State Law Relating to Wiretapping and Electronic Surveillance. He designed and drafted Title III on wiretapping of the Omnibus Crime Control and Safe Streets Act and Title IX ("RICO") of the Organized Crime Control Act of 1970. He is teaching Criminal Law and Federal Criminal Litigation.

John E. Bos, '64, a partner at Bernick, Omer & Radner P.C. in Lansing, specializes in estate planning, elder law, and business planning. His series of articles on Medicaid appeared in the *Michigan Probate & Estate Planning Journal* and he also has written on living wills and durable power of attorney. He previously has taught estate planning at Thomas M. Cooley Law School. At the Law School, he is teaching a seminar in estate planning.

Andrew P. Buchsbaum, a staff attorney with the National Wildlife Federation's Great Lakes Natural Resource Center and manager of the center's Water Quality Project, previously

worked as program director for the Public Interest Research Group in Michigan and as director and coordinating attorney for the Midwest office of the national Environmental Law Center. He is teaching Federal Litigation: Environmental Case Study.

Matthew Chaskalson directs the Constitutional Law Project of the Centre for Applied Legal Studies at the University of Witwatersrand in Johannesburg, South Africa, where he is member of the faculty. He is one of a small number of leading trial and appellate advocates handling constitutional cases in South Africa and has participated in some of the most significant cases decided under the country's new constitution. At the Law School, he is co-teaching Constitutionalism in South Africa with David Chambers, the Wade H. McCree Jr. Collegiate Professor of Law.

Lori Cohen, former director and now a litigator of asylum matters for the Office of Migration of the Archdiocese of Detroit, is teaching Immigration Law. She is a graduate of Yale College and Yale

Law School, clerked for the Hon. Consuelo B. Marshall in the Central District of California, and was an associate attorney at the Los Angeles office of Heller, Ehrman, White & McAuliffe. She chairs the ad hoc *Pro Bono* Committee for the Michigan Chapter of the American Immigration Lawyers' Association, is a member of the Board of Directors for Farmworker Legal Services, and served as president of the Michigan Coalition for Immigrant and Refugee Protection. During the fall term she served as an advisor on asylum issues for the Law School's clinical program.

Alyson Cole, a graduate of Smith College and the University of California at Berkeley, has taught at Mills College and Berkeley, winning teaching prizes at the latter. She was a Fulbright Scholar and recipient of the Odegard and Rozace awards from the UC-Berkeley political science department. Her scholarly interests include European and American political thought, feminist theory, gender and racial politics, and public law. She is teaching a seminar on identity politics.

Gennady M. Danilenko is a professor at Wayne State University Law School and a senior research fellow at the Institute of State Law of the Academy of Sciences, Moscow. From 1992-97 he was at the Center for International Law at the Institute of State Law of the Academy of Sciences in Moscow and, from 1994-97, practiced law as a partner with Galyatin & Associates in Moscow. He has taught at the law schools at Duke University and UC-Berkeley, as well as at the University of Michigan Law School. He has written extensively and is the author of seven books on Russian and international law and international environmental law. He is teaching Russian Law this winter at the Law School.

Sheldon H. Danziger is the Henry J. Meyer Collegiate Professor in the University of Michigan School of Social Work. He is director of his school's Social Work Research and Development Center on Poverty, Risk,

and Mental Health, and he serves as a professor of public policy in the School of Public Policy, as well as being a faculty assistant in the Population Studies Center. He has written widely on poverty, income inequality, and social welfare programs and policies. His recent publications include *Child Poverty and Deprivation in the Industrial Countries of the East and West* (Oxford University Press, 1997), and *Detroit Divided*, forthcoming from the Russell Sage Foundation. At the Law School, he is co-teaching Social Welfare Policy with Dean Jeffrey S. Lehman, '81.

Timothy L. Dickinson, '79, is a partner with Dickinson Landmeier L.L.P. in Washington, D.C., where he specializes in international commercial transactions, foreign sales and investments, economic sanctions and foreign claims, foreign export regulations and enforcement, European Community law, and public international law. He previously has taught at Georgetown Law Center. He is teaching International Commercial Transactions at the Law School this winter.

Matthew W. Frank, '86, a partner at Caplin & Drysdale, Washington, D.C., specializes in tax matters with an emphasis on international law. He has served as assistant U.S. attorney for the Central District of California, has represented the National Football league in U.S. Tax Court, and is co-editor of the *Tax Litigation Alert* newsletter of the ABA Committee on Tax Litigation. He is teaching International Tax.

Shinichiro Hayakawa is on the faculty of Tohoku University, Sendai, Japan. He is co-teaching Comparative Family Law with Carl E. Schneider, '79, the Chauncey Stillman Professor of Ethics, Morality, and the Practice of Law, during the winter term.

Alison Hirschel, who is teaching a seminar in law and the elderly, is the first Yale Law School Arthur Liman Fellow in Advocacy for Residents of Long-Term Care Facilities. She performs advocacy work for the vulnerable elderly of Michigan, supported by Yale, the National Senior Citizen's Law Center in Washington, D.C., and the Michigan Protection and Advocacy Program. She previously has been director of planning and co-director of the

Elderly Law Project for Philadelphia Community Legal Services. She earned her B.A. at the University of Michigan, her J.D. at Yale Law School, and clerked for the Hon. Joseph S. Lord III.

Harold K. Jacobson is professor of political science and senior research scientist in the Center for Political Studies of the Institute for Social Research at the University of Michigan. He is a specialist in international institutions and politics. At the University of Michigan he has served in many capacities, including chair of the political science department, director of the Center for Political Studies, acting director of the Institute for Social Research, and interim associate vice president for international academic affairs. He is the author, editor, or co-editor of 12 books and many articles dealing with international institutions. His most recent book is *Engaging Countries: Strengthening Compliance with International Environmental Accords*, which he edited with Edith Brown Weiss of the Georgetown University Law Center. At the Law School, he is

teaching a seminar in international law and international relations.

Neil Kagan, Midwest Wolf Coordinator and project attorney for the National Wildlife Federation's Water Quality Project, is a graduate of Pennsylvania State University and the University of Oregon School of Law, where he also earned a certificate in Environmental and Natural Resources Law. He worked in environmental and land use law in Oregon as a solo practitioner and as staff attorney/lobbyist with 1000 Friends of Oregon, a land use watchdog group. He has served as the sole or lead attorney in several public interest environmental cases seeking protection of forests, wetlands, rivers, and other natural resources in Oregon. He is teaching the Environmental Law Clinic, which he also taught during the fall term.

Peter Kalbe, M.C.L. '63, also has degrees in law and economics from the universities of Heidelberg, Munich, and Cambridge. He has served in a variety of positions with the European Commission since 1964 — as legal adviser, administrator, and diplomat — and currently is Counsel for

Director General "Common Service Relex," in which he advised on legal and affairs and procedures in the field of external assistance. Until recently he also was responsible for the commission's Technical Assistance Information Exchange Office (TAIEX), which assists countries of central and eastern Europe in legal reform in preparation for their entrance into the European Union. He has extensive experience in international relations and has taught as a visiting professor at the University du Maine, Le Mans, France; the University of Michigan Law School; the College of Europe, Brugge, Belgium; and the University of Essen, Germany. He has taught European law, European Community external relations, and European integration. In addition, he has written extensively on Community law, European Community staff regulations, and policies toward central and eastern Europe. At the Law School, he is teaching External Relations of the European Union.

Riyaz A. Kanji, who is teaching a seminar in litigation strategy and contemporary issues in Native American law, earned his A.B. in social studies at Harvard

College and his J.D. at Yale Law School, where he served on the *Yale Law Journal* and won the Potter Stewart Prize in the moot court competition. He clerked for Justice David Souter of the U.S. Supreme Court and for the Hon. Betty Fletcher of the U.S. Court of Appeals for the Ninth Circuit. He spent two years as a Skadden Fellow at Evergreen Legal Services in Seattle, where he represented 10 Native American tribes in a trial that vindicated the tribes' treaty rights to collect half of the annual Washington State shellfish harvest. Recently, as an attorney at Williams & Connolly in Washington, D.C., he litigated a variety of matters at the trial and appellate levels, including tribal, constitutional, libel defense, and commercial cases. In Ann Arbor, he has established a practice that specializes in Native American fishing rights issues in Michigan.

Marvin Krislov is vice president and general counsel of the University of Michigan. He received his B.A. *summa cum laude* from Yale University, then, as a Rhodes Scholar, studied and

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Visiting, adjunct faculty

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earned his M.S. in modern history from Magdalen College at Oxford University. He earned a doctor of laws degree from Yale Law School, where he served as editor of the *Yale Law Journal*. He has clerked for Judge Marilyn Hall Patel of the U.S. District Court in San Francisco, served as acting solicitor in the U.S. Department of Labor and as deputy solicitor and primary legal advisor to the Secretary of Labor. He has been associate counsel in the Office of Counsel to the President and was a trial attorney for the U.S. Department of Justice's Civil Rights Division. He previously has taught at the National Law Center at George Washington University. At the Law School, he is teaching a seminar on the role of in-house counsel.

Robert R. Kuehn has been clinical professor and director of the Tulane Environmental Law Clinic since 1989. He has a B.A. from Duke University, a J.D. from George Washington, an LL.M. from Columbia, and an M.P.H. from the Harvard School of Public Health. He has clerked for the Hon. Sidney M. Aronovitz of the Southern District of Miami and for Judge James C. Hill of the Eleventh Circuit. He has been a trial attorney for the Environmental

Enforcement Section of the U.S. Department of Justice and has taught courses on environmental advocacy, environmental enforcement, environmental law, and hazardous and solid waste regulation. At the Law School, he is teaching Hazardous and Solid Waste and a seminar on environmental enforcement.

Margaret Leary, director of the Law Library, is teaching a course in advanced legal research. She earned her bachelor's at Cornell University, her master's at the University of Michigan School of Library Science, and her J.D. from Williams College of Law.

Bing Ling, LL.M. '92, is an assistant professor in the Department of Law at City University of Hong Kong. A specialist in Chinese contract law, he has taught in France and at Peking University. He received his LL.B. degree from Peking University and has served as assistant professor at Peking University's International Law Institute. He is an S.J.D. candidate at the Law School. The author of three books and various articles on Chinese law, Hong Kong law, and international law, he is teaching Chinese Law.

Karl E. Lutz, '75, a retired partner of Kirkland & Ellis in Chicago, continues to serve the firm of counsel. At Kirkland, he practiced corporate law, specializing in private equity, venture capital, leveraged buyouts, mergers and acquisitions, debt and equity financing, and board representations. He has lectured frequently at professional schools and served as general counsel of a medical diagnostics company. He is teaching Law as a Business.

G. Osamu Morita teaches basic civil code (contracts and torts) at the University of Tokyo and is involved in the Japanese law and economics movement. He is participating in the teaching of Assistant Professor Mark D. West's seminar on the Japanese legal system.

Valerie Newman, an assistant defender in the State Appellate Defender Office in Detroit, co-teaches Criminal Appellate Practice with P.E. Bennett (see page 49). She is a graduate of the University of Michigan and Wayne State University Law School. She has worked as clerk and attorney with Reosti, James & Sirlin P.C. in Detroit and chairs the State Bar of Michigan's Defender Systems and Services Committee. She is a member of the domestic

violence and criminal justice issues task force of the State Bar's Open Justice Commission and is a board member and past president of the National Lawyers Guild. She chaired the Guild's national convention in Detroit in 1998. A member of the Women Lawyers Association of Michigan and a board member of the Wayne region for the past four years, Newman chairs the reproductive rights committee and has been a member of the region's candidate rating and endorsement committee for the past four years. She also is a member of the Citizens Alliance on Prisons and Public Safety (CAPPS), which works to stop the growth of the corrections industry and to deter the shift of resources away from public education, and is a board member and former president of the Michigan Abortion and Reproductive Rights Action League (MARAL).

Steven Rhodes, '73, is the chief bankruptcy judge for the Eastern District of Michigan and serves on the Bankruptcy Appellate Panel for the Sixth Circuit. His undergraduate degree is from Purdue University. He has clerked for the Hon.

John Feikens, '41, of the U.S. District Court for the Southeastern District of Michigan, and served as an assistant U.S. attorney and as a U.S. magistrate. He is a fellow of the American College of Bankruptcy and a former associate editor of the *American Bankruptcy Law Journal* and the *Michigan Law Review*. He has lectured and written widely on bankruptcy law and has taught at the Law School since 1992. He is teaching Bankruptcy.

Mark D. Rosenbaum, general counsel for the American Civil Liberties Union in Los Angeles, earned his bachelor's degree from the University of Michigan and his law degree from Harvard Law School, where he was vice president of the Harvard Legal Aid Bureau. He previously has served as staff counsel for the ACLU. He has taught at Loyola Law School, Harvard Law School, the University of Southern California Law Center, and began teaching at the University of Michigan Law School in 1993. His areas of expertise include poverty and homelessness legislation, immigrants' rights, workers' rights, civil rights, and First Amendment issues. He is teaching Fourteenth Amendment and a seminar in public interest litigation.

Edward R. Stein, '66, specializes in civil litigation at the firm of Stein, Moran & Westerman in Ann Arbor. He frequently lectures on trial techniques and expert witness testimony. He is teaching Trial Practice.

J. Taylor Teasdale works with the Detroit-based Legal Assistance for Urban Communities Clinic on projects associated with the clinic's two Fannie Mae Foundation grants. Formerly a corporate attorney with Lewis & Munday P.C. in Detroit, he earned his LL.M. at the London School of Economics and his J.D. from Detroit College of Law. He also has studied at the University of Windsor Law School and is a member of the Michigan and Ontario bars. He joined the Law School in 1999.

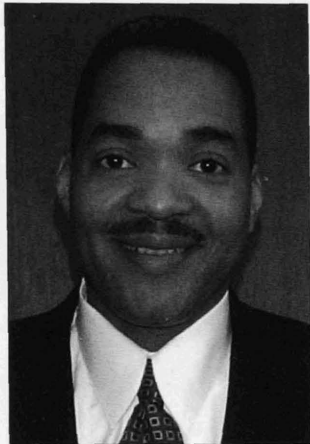
Yozo Yokota, professor of law at the University of Tokyo, previously taught at International Christian University in Tokyo. He has served for many years on the United Nations Commission on Human Rights and is a board member of the Japanese Association of World Law, the Japanese Association of International Law, and the Japanese Association of International Economic Law. He has



A meeting of traditions —

"Ninety percent of [American] law is state law. There's huge diversity here. The states really drive the system for most purposes," Professor Mathias Reimann, LL.M. '83, tells graduate degree law students during a program in October sponsored by the Center for International and Comparative Law. Reimann's talk on "The American Legal System from a Civil Law Point of View" acquainted the students, most of whom were from countries with a civil law tradition, like Germany and Switzerland, with basic differences between a common law system like that in the United States and a civil law system like that in western Europe and many other countries. The American legal system is open-ended, constantly changing, and very practical in its goals, Reimann said. Civil systems, on the other hand, provide rules rather than starting points and definite answers rather than springboards for varying interpretation. "The point here is not 'finding' the law but 'making' the law. It's constantly made, every day." Sometimes, Reimann said, to acquaint students with the American legal idea of many "truths," he will ask students to read the decision in a case and then write a reasoned dissent. Similarly, he encourages students to take part in study groups that discuss cases and frame different approaches to them. "This law thrives on discourse," he said.

written extensively on international law. At the Law School, he is participating in the teaching of Assistant Professor Mark D. West's seminar on the Japanese legal system.



Reginald Turner, '87



MaryAnn Sarosi, '87



Alfred M. Butzbaugh, '66

PHOTOS COURTESY MICHIGAN STATE BAR

Law School graduates steer State Bar's Access to Justice efforts

Why, you ask, are there so many University of Michigan Law School graduates among those represented in last October's *Michigan Bar Journal* theme issue on the Access to Justice (ATJ) Program?

Bar Association President Alfred M. Butzbaugh, '66, smiles, then answers. "Michigan impresses this in people," he says. Legal education at Michigan builds in a concern for making legal assistance available to those who often cannot afford it.

The theme issue backs him up: In addition to articles by and about Butzbaugh, a longtime champion of the program, there are pieces by 1987 Law School graduates Reginald Turner, State Bar secretary and successor to Butzbaugh as chair of the State Bar's Access to Justice for All Task Force, and MaryAnn Sarosi, associate executive director in charge of the Access to Justice Program (ATJ).

Other Law School graduates who appear in the issue include:

- Legal Services pioneer John W. Cummiskey, '41, author of an article on the origins of Legal Services and the subject of another article that highlights his efforts over many years to provide legal services to the poor.

- John Rintamaki, '67, vice president/general counsel and secretary of Ford Motor Company, who shares authorship of an article on the Detroit Legal Services Clinic with General Motors Corporation Senior Vice President/General Counsel Thomas A. Gottschalk.

- Donald L. Reisig, '58, who shares authorship of an article on *pro se* assistance with the Hon. Peter D. Houk, chief judge of the 30th Judicial Circuit in Michigan.

Other authors in the theme issue with connections to the Law School include former Law School librarian Barbara McDowell Bonge, now librarian for the Michigan Court of Appeals; former Law School clinical faculty member Mark Fancher, now senior director of special projects for the State Bar; and Steve Gray, managing attorney and technology coordinator for the Michigan Poverty Law Program, based at the Law School. University of Michigan graduate and Legal Services champion Fred Upton, a U.S. congressman from Michigan, also is featured in the issue.

In essence, ATJ is an effort to make legal services available to those who cannot afford them or find access to them. As State

Bar Executive Director D. Larkin Chenault puts it: "The Bar's Access to Justice Program seeks to increase lawyers' *pro bono* work, improve the mechanisms for the delivery of legal services and the use of technology, and increase the development of financial resources to address the unmet legal needs of the poor."

In its operational form, ATJ is a complex program that fuses State Bar efforts with the expertise of law firms and practitioners throughout Michigan and in all of the state's Legal Services offices. Budgeted at \$750,000 a year, it accounts for 15 percent of State Bar expenditures. The Bar has created the Access to Justice Fund to support the program directly as well as to provide a channel for lawyers to make financial donations when they are unable to donate time for *pro bono* work.

An estimated 1.5 million low-income people in Michigan qualify for civil legal aid, and only 20 percent of their needs are being met. "These low-income families need legal assistance on essential family, housing, and consumer issues," Michigan Gov. John Engler, himself a lawyer, notes in an endorsement letter that appears in the theme issue.

"It's always been my impression that the profession understands the need," says Butzbaugh, who chaired the State Bar's

Access to Justice committee for three years before becoming Bar president last summer. "I think lawyers want to meet the need. A lot of the work of the program is trying to figure out ways to tap into the need.

"One of the things we've tried to do with the big firms is to find ways to give them cases and projects that fit with their day-to-day work."

ATJ is constantly experimenting in other areas, too. It's testing different types of hotlines to provide telephone assistance. In the case of Michigan's 15 federally aided legal programs, "our goal is to get them to operate like one law firm with 15 offices," Butzbaugh says.

In many ways, ATJ came about to plug gaps opened by Congress' reduction in the role and funding of the Legal Services Corporation. According to Butzbaugh, ATJ also is a response to public and media criticism of the legal profession and the confusion among practitioners that that criticism has caused. "My plan is to begin to refresh the spirit of lawyers," he says. "To do that, we must reconnect with our fundamental purposes, our reason for being: Assuring equal access to justice for all people."

Last July, at a White House reception to celebrate the 25th anniversary of the Legal Services Corporation, Butzbaugh found himself accepting compliments from many attendees. "Some I had never met came to me to congratulate our Bar on the ATJ Campaign," he wrote for last fall's theme issue. "We are the only state bar ever to undertake such a campaign. It is clear that leaders throughout the country are watching us. As we succeed, we will become the beacon to guide others, to the benefit of the justice system, our profession, and the poor throughout the country."

Brashares, '64, scores one of 'Top Wins'

Sometimes, says William C. Brashares, '64, it's better to fight than to settle. A partner in the Washington, D.C., office of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., Brashares followed that belief in defense of Biogen Inc. to a court victory honored by *The National Law Journal* as one of its "Top Wins."

"Not dishonest to be wrong if you think you are right," said *The National Law Journal* headline on the story of the class action securities fraud suit against Biogen, part of the periodical's April 1999 announcement of the top defense victories of 1998. A unanimous jury exonerated Biogen in May 1998.

The case involved charges that Biogen CEO James Vincent committed fraud by reporting that initial tests of a new anticoagulant drug looked very good. Biogen stock rose 11 percent after Vincent's announcement, but later fell 17 percent when Biogen issued a notice that it was ceasing production of the drug as the result of later Phase III testing.

Stockholders sued, but Biogen never wavered in its refusal to negotiate a settlement or its willingness to fight the charge in court. "We have a very stubborn CEO, and we never made any settlement offer," Biogen Chief Corporate Counsel Thomas Bucknum told *The National Law Journal*.

Brashares, Peter E. Jaffe, also of Mintz, Levin's Washington office, and John Sylvia, of the firm's Boston office, handled the defense. "It was the kind of case that 'always' settles," Brashares wrote later for February 1999 issue of *The Metropolitan Corporate Counsel*. "From the outset," he explained, "we realized that we eventually would need to educate a jury about the drug itself, the clinical testing, and the FDA regulatory process in order to show that Biogen had done nothing wrong."

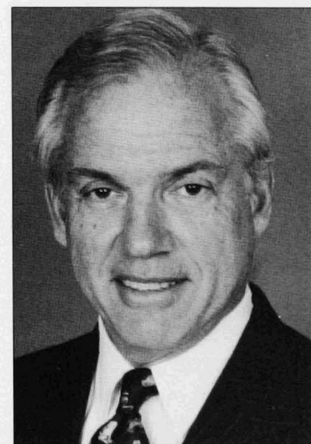
"In Biogen's view, this case represented much more than just a 'win,' it was a 'stand,'" Brashares continued in *The Metropolitan Corporate Counsel*. "Query whether plaintiffs would have quit earlier, or elected not to bring the case in the first place, if they had known that trial

beckoned? Would they have channeled their energy into other cases targeting more 'accommodating' defendants? In our experience (garnered from this case and others), there is much to suggest that taking many of these cases to trial — certainly many more than are presently going the distance — would make good financial sense. . . .

"Plainly, there are cases that should be settled. But the Biogen victory further validates our belief that too many winnable cases are being settled too quickly — or for too much money."

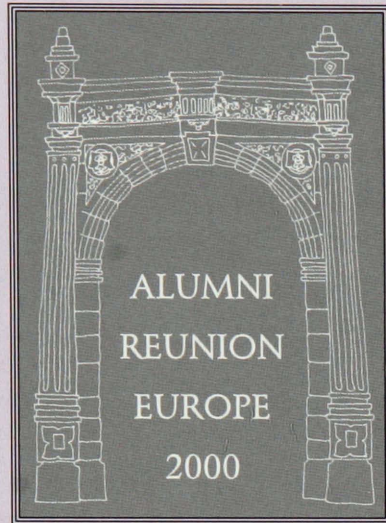
The National Law Journal listed 15 top victories and six honorable mentions. Earning a spot in the list meant meeting five requirements: the case had to be a jury verdict; the amount at risk had to be substantial; the plaintiff had to have a reasonable chance of winning; the victory must be complete and not a moral victory in which large claims were made but the award was small; and the jury's decision still must be valid. In addition, the *Journal* said, "the attorneys for the plaintiffs can't be pushovers, either."

(Brashares returned to the Law School in October to attend his class reunion and participate as a panelist in the program "Bridging the Generations." Story and photos on last fall's reunions are on page 63.)



William Brashares, '64

PHOTO COURTESY MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.



Alumni Reunion Europe 2000 full steam ahead

The Law School's third European reunion of alumni promises to be a gala affair that includes the opportunity to renew ties with colleagues and fellow graduates, opportunities to hear and engage in discussions of significant topics in legal affairs, and just simply enjoy the camaraderie of fellow members of the Law School family in the beautiful German city of Heidelberg.

With activities centered at the Max Planck Institut for Comparative Public Law and International Law, Alumni Reunion Europe 2000 opens Thursday, June 22, with an evening welcome reception and continues through Saturday, June 24. Concluding events include a barge cruise along the Neckar River to witness the "lighting of the castles" while enjoying dinner.

Tucked between the opening reception and closing dinner cruise are activities to pique any interest.

"We plan several events in lovely locations in Heidelberg for alumni to gather, renew old friendships, and establish new ones," says Dean Jeffrey S. Lehman, '81, who will welcome reunion participants. "As is traditional at our international reunions, we also will have intellectually stimulating panel discussions on important topics of the day, arranged to leave plenty of time for participation by our distinguished audience of alumni."

"While this is a reunion organized for our European alumni, any alumni who plan to be in Europe at this time are

welcome to attend," he adds. "So please encourage your alumni friends to join you, and bring your spouse, partner, or other guest."

Professor Merritt B. Fox, director of the Law School's Center for International and Comparative Law, and Assistant Dean for International Programs Virginia B. Gordan join Lehman in his enthusiasm for the program and invitation to attend.

The reunion schedule features three thought-provoking panel discussions:

- "The Individual and the Institution: Participation and Legitimacy in the European Union." The panelists will be Assistant Professor Daniel H. Halberstam, Professor Emeritus Eric Stein, '42, and three Law School graduates: Claus-Dieter Ehlermann, '56, professor at the European University Institute; Raimund T. Raith, LL.M. '81, legal advisor to the Legal Service of the European Commission; and Gerrit Schohe, LL.M. '86, of Feddersen Laule Ewerwahn Scherzberg Finkelnburg Clemm in Brussels.

- "Lessons from Kosovo," with A.W. Brian Simpson, the Charles F. and Edith J. Clyne Professor of Law, and Overseas Affiliated Faculty members Christopher McCrudden and Bruno E. Simma. Joining them will be Max Planck Institut Director Jochen A. Frowein, M.C.L. '58, who has generously made the Institute available for the reunion.

- "New Jurisdictional Issues in a Globalizing World: Perspectives from Different Areas of Economic Regulation,"

with Professors Fox, Reuven S. Avi-Yonah, Robert L. Howse, and Ronald J. Mann. Joining them will be Jean-Francois Bellis, LL.M. '74, of Van Bael & Bellis in Brussels, and Mario Marques Mendes, LL.M. '85, of Marques Mendes & Associados, Lisbon.

In addition, Professor Mathias W. Reimann, LL.M. '83, will consider the question "Does Comparative Law Still Make Sense?" during a luncheon talk, and Thomas Kauper, '60, the Henry M. Butzel Professor of Law, will speak at the Friday evening reunion gala.

A special Saturday morning gathering for graduates who are teachers will provide the opportunity to discuss "The Path of European Scholarship on Supranational and International Institutions."

Reunion registration is due by May 4 and may be sent to:

The University of Michigan Law School
European Alumni Reunion 2000
Development and Alumni Relations
721 South State Street
Ann Arbor, Michigan 48104-3071
United States

Further information and the registration form are available at www.law.umich.edu/alumni/international.htm

For more information e-mail lawevents@umich.edu, or telephone 1.734.615.4535.

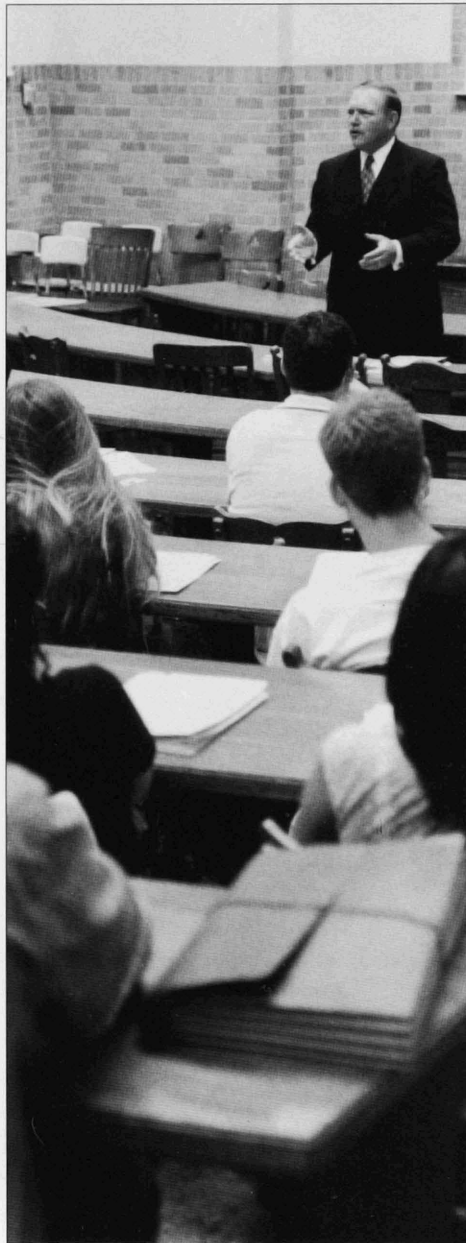
Judge Donald E. Shelton, '69: Change society

The Hon. Donald E. Shelton, '69, of the Washtenaw County Circuit Court, harked back to his role in the founding of the *Michigan Journal of Law Reform* during a rousing, sometimes critical, often funny talk that he delivered at the Law School in September as part of the training program for the publication's new staff members.

Shelton was a charter staffer of *Prospectus*, the forerunner to the *Journal of Law Reform*. "It was the Vietnam era, a time of unrest, a time of dissatisfaction with the morals of our society, a time of dissatisfaction with our government," he recalled. Some of that unrest was reflected in the launching of *Prospectus*, and then-Dean Francis Allen quickly voiced support for the new journal, Shelton said. Allen outlined the new journal's purposes in the first issue: "to report efforts to improve the law and its administration, and to stimulate thought and constructive action to this end"; and "to enlarge the opportunities for law journal experience of students at the University of Michigan Law School. A substantial portion of the contents will consist of student writing."

Overall, Allen said, "the emphasis will be on practical problems and practical solutions."

Shelton himself was an example of students contributing to the journal. His article in the inaugural issue in April 1968, "Unconstitutional Uncertainty: A Study of the Use of Detainers," discussed how detainer procedure has "led to both poor penology and a denial of the prisoner's right to a speedy trial" and proposed legislation to correct the problems associated with detainer. He told students at the training session that he visited



Washtenaw County Circuit Judge Donald E. Shelton, '69, a charter member of the staff of *Prospectus*, forerunner to the *Michigan Journal of Law Reform*, recalls the heady days of launching the new journal and urges law students to invigorate its heritage by writing more of the articles that appear in the current journal. Shelton spoke in September as part of the Journal's orientation program for new staff members.

prisoners and talked with prisoners as preparation for his article and tried to go beyond facts to the "social reality" of the issue.

"This was a journal that urged reform, the re-formation of existing laws," he said. "This was a group of people who didn't believe they were here to do the ordinary."

Unfortunately, the *Journal* has moved away from its origins by using less student writing and more heavily documented, academic articles, he said. "I have to tell you, most sane people don't read footnotes. In my years on the bench I don't think I've ever been persuaded by a footnote. It is the writing that will persuade people, and if it is not persuasive writing you cannot expect to convince the establishment."

Use your Law School training and experiences to shape your life, Shelton urged the students. "I would suggest that you need to make your choices about your life, and I would suggest this is the best place to do it. I would encourage you to look beyond the law as just a way to make a living. . . . This is not a trade school. This is a school where we train people who can change the course of society — and you are those people."

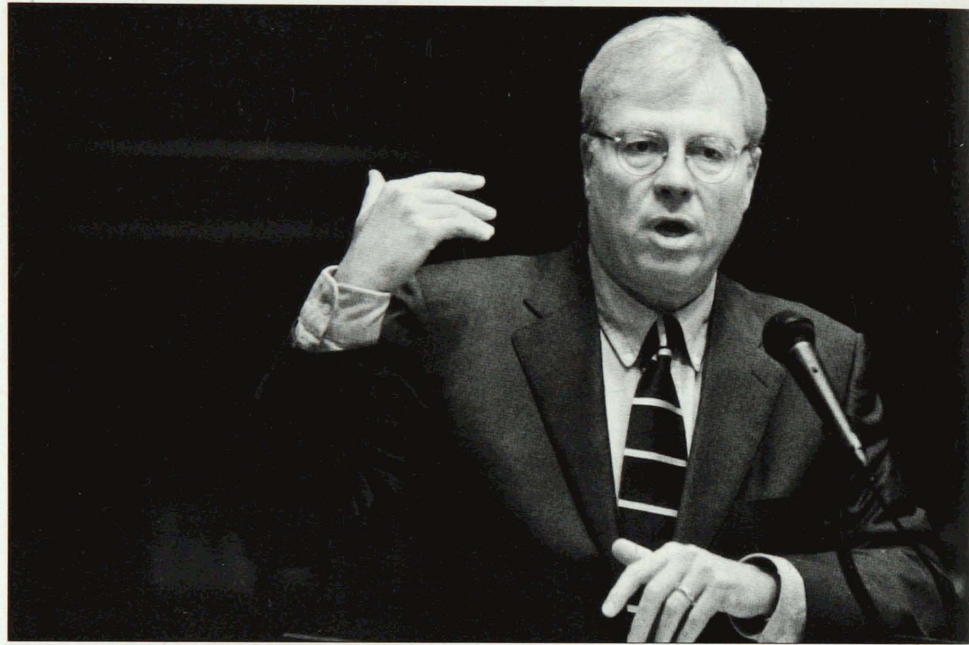
"I would suggest that you need to make your choices about your life, and I would suggest this is the best place to do it. I would encourage you to look beyond the law as just a way to make a living . . ."

Speakers light

Inspiring Paths

More than 20 years separate the Law School graduations of Joseph Zengerle, '72, and Pamela Shifman, '96. In many ways their values have been shaped by different times. And thus their work is different — he directs the Legal Aid Society of Washington, D.C.; she is coordinator for the Network Women's Program of the Open Society Institute, an arm of the Soros Foundation.

But their differences fade in the face of their shared commitment to using their skills to help people who can't help themselves. Zengerle and Shifman outlined their career choices and values as the first two speakers in the fall term's "Inspiring Paths" series, sponsored by the Law School's Office of Public Service. The series features "adventurous lawyers" whose lives and careers reflect the ideals of public service, according to Office of Public Service Director Robert Precht. The series showcases a variety of ways that lawyers' skills can be used to help people who otherwise might not get the legal assistance they need.



*Successful steps are
"the grains of sand that make
a meaningful life."*

*"Have a cause.
Have courage.
Have determination.
And have empathy."*

“Stick with your passion. Your job is too important to be miserable in.”

“I’ve reached out to a large number of people who now have become friends and colleagues.”

JOSEPH ZENGERLE, '72

Joseph Zengerle, '72, can boast of his accomplishments: West Point graduate, Vietnam veteran and special assistant to Generals Creighton Abrams and William Westmoreland, clerk to U.S. Supreme Court Chief Justice Warren Burger, assistant secretary of the Air Force, a founder of Vietnam Veterans of America, *pro bono* attorney in successful cases to put the grizzly bear on the Endangered Species list and to lift President Reagan's hiring freeze for veterans programs, chairman of the Agent Orange Settlement Fund, etc.

But he doesn't brag of such things.

Being married to his wife, Lynda, for 30 years, and raising two sons, "is the deepest experience of my life," he says. "There's no better use of my time." (Zengerle's spouse is Lynda S. Zengerle, '72, an international partner at Baker & McKenzie, where she manages the firm's immigration practice from its Washington, D.C., office.)

Together, he says, his personal and professional accomplishments are "the grains of sand that make a meaningful life."

Zengerle, who became executive director of the Legal Aid Society of Washington, D.C., in 1997 after 15 years as a partner in a large law firm, discussed his life and values as the first speaker in the fall term's "Inspiring Paths" series.

Zengerle said his early views were shaped by the Cold War, but the collapse of the Soviet Union meant that "all of a sudden we didn't have a unifying theme anymore." Drawn to working against the absence of "social capital" that he saw about him, he became chairman of the Emeritus Volunteers, which matches the skills of senior citizens with social needs.

He listed factors in his and his country's

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PAMELA SHIFMAN, '96

Pamela Shifman, '96, took an unorthodox approach to legal studies and her subsequent career, but, hey, as she says, "There's no 'exactly right' career decision to make. . . . Whatever you do will work out."

"Sometimes it's good to just throw caution to the wind and do what feels right to you. Stick with your passion. Your job is too important to be miserable in."

Shifman was the second speaker in the fall term's "Inspiring Paths" series, presented by the Law School's Office of Public Service.

"It wasn't that long ago that I was in your position," she told her audience of students. "I was pretty hungry for information about what is out there and what I was going to do."

Shifman, who said she has an abiding interest in social justice issues, earned her bachelor's degree at the University of Michigan in political science and women's studies, and "the natural progression seemed to be to go to law school."

Early in her Law School career, "I made the decision that I was going to take the



courses that were really interesting to me. I was going to make law school fun."

She did just that, and "I really liked law school. . . . I feel like I took advantage of what was available." She developed a manual on prosecuting hate crimes for the California Fair Employment and Housing Commission in her first summer job. It was a good job, she recalled, "but I came back recognizing that wasn't what I wanted to do." After her second year, when many of her fellow students were taking jobs at law firms, she landed a position with the Northwest Women's Law Center in Seattle, where "I had a great summer" but that "helped confirm that I did not want to be a lawyer."

After graduation she applied for but did not get a clerkship. And, besides, after two summers of legal work "I knew what I didn't want to do. . . . I wanted to travel, so I looked at opportunities to work abroad. I

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■ JOSEPH ZENGERLE, *continued from page 59*

life that led him to this kind of change:

- As a nation, “we’re not joiners now.”
 - Massive income inequality separates the haves and the have-nots. “It’s all stuck at the top. It’s not trickling down, and people at the bottom are not getting the help we can afford.”
 - His parents divorced. As a child of a broken marriage in the 1950s, “I became a member of a minority group.”
 - “Then I converted to Judaism when I married my wife, who is Jewish.”
 - “And last but not least, I’m a Vietnam veteran.”
- “I had felt what it was to be an outsider, and that had an impact on what mattered most to me,” he said.
- What became important to him, Zengerle realized, was to make a difference to those less fortunate, one person at a time. “It doesn’t have to be a big case. It doesn’t have to involve a lot of money. It just requires someone whose poverty prevents justice, and because you’re a lawyer, you can help.”
- He said that providing free representation to the city’s poor, as the Legal Aid Society of Washington does, allows lawyers to:
- Have a significant personal impact on individual clients.
 - Shoulder major responsibilities early in your career.
 - Start your career with the habit of mind of helping disadvantaged people. “I think it’s a wonderful instinct to have for the rest of your life.”
 - Serve the principle of equal access to justice.
 - Strengthen a legal profession that would be improved by such activity.
 - Work with colleagues who share your vision and are willing to help you.
- “Have a cause,” he urged students. “Have courage. Have determination. And have empathy.”

■ PAMELA SHIFMAN, *continued from page 59*

looked into working in South Africa. This was 1996, two years after the elections.”

She applied for and received a Bates Fellowship from the Law School and went to work with South Africa’s Reproductive Rights Alliance to develop the country’s first pro-choice law. She spent six weeks with Parliament in Capetown, fine-tuning the proposal and helping to win its eventual passage. It was, she recalled, “the most amazing experience ever.”

So she couldn’t resist the request when the ruling African National Congress called her to Parliament to work on domestic violence and other issues. She spent a year and a half on the work, but then decided to return to the United States. She called Career Services Director Susan Guindi, ’90, for help. “I want to do international women’s rights work, and there don’t seem to be any jobs,” she told Guindi.

Shifman worked the network — she lived for a time on free lunches, she joked to her audience — and eventually got hired at the Open Society Institute, which she knew had the power to make an impact on international women’s rights. “After being in South Africa, I saw how foundations drive the agendas in lots of ways,” she explained.

Mostly, she works with groups in central and eastern Europe, providing technical assistance and running programs. Last summer, for example, she worked at a high school camp in Croatia teaching a workshop on violence against women and women’s rights. As a result, she is

developing the Girls Leadership Institute as a summer program to “help girls develop leadership skills to be leaders in their own countries.”

She spends a quarter of each month abroad, and although she confesses that the travel can be “a little burdensome,” there’s also “lots of room for taking the initiative.”

Her advice to others? “Ask, ask, ask for help.” And “think carefully about the choices you have. Use your summers well, and get involved in what you have at the Law School.”

“I’ve reached out to a wide range of people who have now become friends and colleagues,” she said. “And that is invaluable.”

Other speakers in the “Inspiring Paths” series were:

■ Steve Tobocman, ’97, director of Community Legal Resources in Detroit. Tobocman, funded through a Skadden Fellowship, worked for two years in Detroit identifying the need for a program like Community Legal Resources and then developing it.

■ Michelle M. Benecke, co-founder of Servicemembers Legal Defense Network of Washington, D.C. A former U.S. Army captain and battery commander, Benecke said since its formation in 1993 her organization has worked on more than 2,000 cases defending military service members accused of or harassed for being gay or lesbian. Despite the current “Don’t ask, don’t tell, don’t pursue” military policy on sexual orientation, the numbers of discharges on these grounds is increasing, she reported. “The policy we’re working with is a double standard. It defines our clients as second class citizens . . . so ultimately what we’re after is to overturn the policy.”



Dwight H. Vincent, '57

Vincent, '57, elected to national YMCA board

Dwight H. Vincent, '57, a retired partner of Clark Hill, one of Michigan's oldest and largest law firms, has been elected to a six-year term on the national board of the YMCA of the United States. The 50-member board is part of the policy-making and planning efforts of the national office for the country's more than 2,000 YMCAs.

Vincent has been involved with the Y since childhood. He attended Camp Y-Noah in Ohio as a child, and has served on the boards of directors of the Mid-American YMCA, the YMCA of Metropolitan Detroit, and the Metropolitan Detroit YMCA Camp Board.

He retired in 1996 as a partner from Clark Hill, where he had specialized in labor and employment law and served on the firm's Executive Committee.

He is a member of the College of Labor and Employment Lawyers.

A retired captain of the U.S. Naval Reserve, Vincent has been involved in many community organizations, among them the Detroit Historical Society and the Detroit Institute of Arts. He also has worked with the Dearborn Orchestral Society, serves as a member of the Dearborn Heights Canvas Board, and is chairman of the Dearborn Heights Act 78 Board, which oversees civil service for Dearborn Heights' police and fire departments. He and his wife, Cynthia, live in Dearborn Heights.

William J. Dritsas, '80, named one of California's 20 top lawyers

California Lawyer magazine has named William J. Dritsas, '80, a partner in Seyfarth, Shaw, Fairweather & Geraldson in San Francisco, one of the Golden State's top 20 lawyers of 1999.

The magazine announced the winners in its December 1999 edition. "California is home to many creative, groundbreaking lawyers who often set the legal agenda for the rest of the country," begins the cover story on the awards. "The 20 lawyers we honor this year made new law, created significant state or federal policy, or continued exceptional work."

Dritsas, who also earned his bachelor's degree at the U-M, specializes in representing management in labor and employment matters. His representation of the defendant in *White v. Ultramar Inc.*, 21 C4th 563, broadened the litigation shield of corporations even though the courts finally

ruled against his client.

"In August, the California Supreme Court ruled that companies are not liable to pay punitive damages for the unlawful behavior of managers solely because the managers have hiring and firing authority," *California Lawyer* said. "Instead, a plaintiff must demonstrate that a manager exercises the kind of decision-making authority that determines corporate policy.

"The decision marks the first time the high court has weighed in on employer liability since 1980, when the legislature amended the law, allowing wronged employees to collect punitive damages under certain circumstances, including acts of oppression, fraud, or malice by an officer, director, or managing agent of the company. For years the lower courts have split over how to define 'managing agent.'"

Continued on page 62



William J. Dritsas, '80

Fidel? Yes, this is Boris

Continued from page 61

Although the decision is a boon to employers, it was not a victory for Ultramar.

"Ultimately, the court ruled against the company and denied Dritsas' petition for rehearing," *California Lawyer* said. "He is arguing that since the decision announced a new standard, there should be a new determination applying the new standard."

The case involved a charge that a convenience store chain had unlawfully terminated an employee for testifying at a former co-worker's unemployment benefits hearing. On appeal, Ultramar, the employer, challenged the \$300,000 award in punitive damages on the grounds that the supervisor who terminated the plaintiff was not a "managing agent" under the definition set forth in the statute. The appellate court affirmed the award and held that the supervisor was a "managing agent" because she had the power to hire and fire.

The California Supreme Court agreed that the supervisor was a managing agent, but used a different test to reach that conclusion. Instead of using the appeals court's definition, the Supreme Court relied on its 1979 decision in *Egan v. Mutual of Omaha Insurance Co.* to define the supervisor as a managing agent because she exercised "substantial discretionary authority over decisions that ultimately determine corporate policy."

The telephone message to *Law Quadrangle Notes* was from Professor Eric Stein, the Hessel E. Yntema Professor Emeritus of Law and an architect of the field of comparative law: "Boris Kozolchyk, who is speaking at the International Law Workshop today, has some wonderful stories to tell of his times here, including how Fidel Castro telephoned him at the Lawyers Club."

Ignore such a tip? No way. Kozolchyk, LL.M. '60, S.J.D. '65, then a student, now president and director of the National Law Center for Inter-American Free Trade (located at the University of Arizona College of Law, where he also is the Evo de Concini Professor of Law), remembered the call well.

The previous year, 1959, acting on behalf of ALCOA head Vining Davis, Kozolchyk had extended to the new government of Fidel Castro an offer to build a bridge from mainland Cuba to the Isle of Pines if Castro's government would allow ALCOA and other private landowners to retain 50 percent of their former holdings. ALCOA chose Kozolchyk because he was Cuba's temporary Consul in Miami and was one of the few attorneys who could practice in both the United States and Cuba — he has a doctorate in law from the University of Havana and had practiced law in Cuba before Castro came to power, and he also has a J.D. from the University of Miami School of Law.

The offer, however, fell on ideologically deaf ears. Within hours, Castro was on Cuban television decrying ALCOA's attempt to "rape" Cuba's new Agrarian Reform Act by exempting from its application a "big chunk" of the Isle of Pines.

That, it seemed, was the end of that, and Kozolchyk soon headed on to study at the University of Michigan Law School.

A year later, he got a message at the Lawyers Club that there was a telephone call for him from the Prime Minister of Cuba. He took the call, chatted briefly, and then listened as Castro himself came on the line. The Cuban leader wanted to re-open ALCOA's bridge-building offer.

"But what of the Agrarian Reform Act?" Kozolchyk asked.

"There'll be a decree tomorrow exempting the Isle of Pines," Castro answered.

Alas, Davis and ALCOA no longer were interested.

And that really was the end of that.

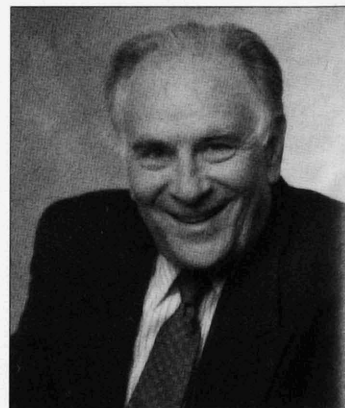
A few years later, Kozolchyk found out that Castro's renewed interest in the Isle of Pines bridge came about when Anastas Mikhoyan, the then-Soviet Minister of Commerce and Foreign Trade, visited Cuba and said to Castro: "We have been financing a number of Cuba's projects that do not generate any revenues and particularly hard currency. Don't you have any project that can generate some U.S. dollars?"

During his long career, the Cuban-born Kozolchyk has rubbed shoulders and knocked

heads with government officials and international commercial and legal experts in much of the western world, especially in Central and South America. Now, as head of the National Law Center for Inter-American Free Trade (NLCIFT), he is deeply involved with officials and sister centers in Canada and Mexico to unify commercial and trade law and standardize trade practices among the NAFTA and other Western Hemisphere nations.

His visit to the Law School in November to speak at a faculty luncheon and the International Law Workshop (see story on page 20) was his first back to Ann Arbor in nearly 40 years and triggered many recollections. Here are two:

■ "During the 1950's, an LL.M. degree was helpful in obtaining a teaching position in the United States, and the University of Michigan Law School was among the most influential in placing aspiring law teachers. I was interested in teaching in the United States, among other reasons, because



Boris Kozolchyk

PHOTO COURTESY OF NATIONAL LAW CENTER FOR INTER-AMERICAN FREE TRADE

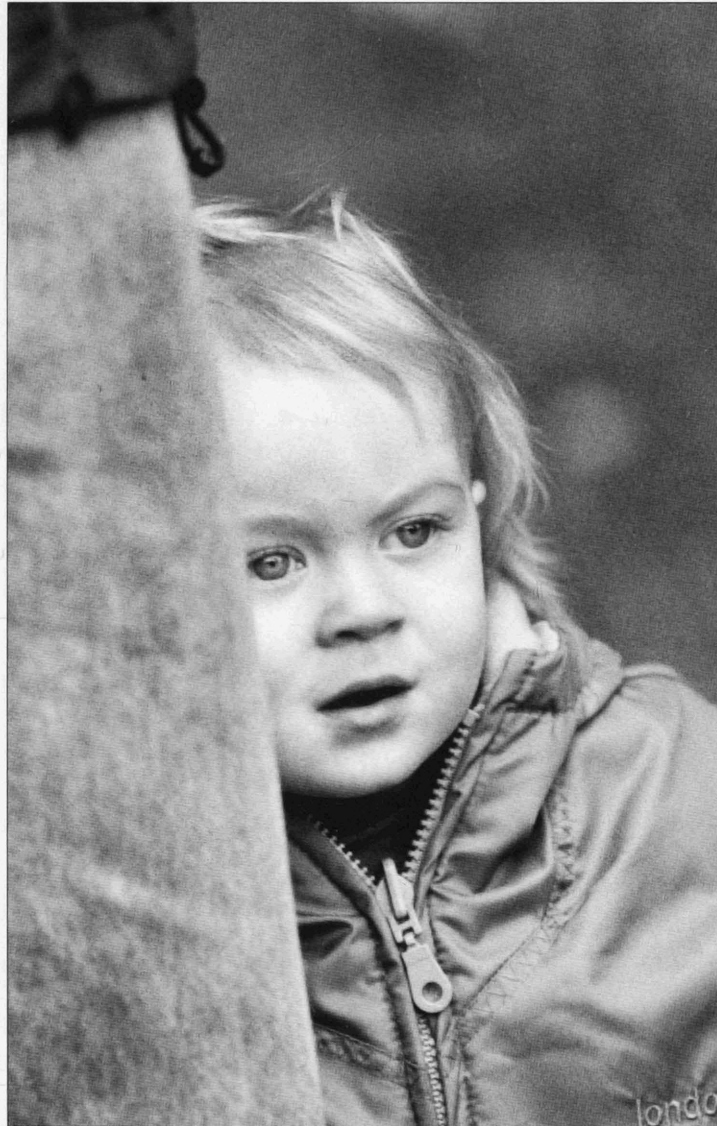
REUNIONS

A time for looking back and



PHOTO BY BILL WOOD/UNIVERSITY PHOTO SERVICES

PHOTO BY BILL WOOD/UNIVERSITY PHOTO SERVICES



Top, Bob Gooding, '69, and Martha Gooding show son Ryan around the Law Quadrangle. Above, young Anna Borrowman sticks close to her dad's trouser leg as she takes in reunion activities on the Law Quadrangle. She accompanied her dad, scholarship recipient Jonathan Borrowman, to the Scholarship Breakfast that is held each fall in conjunction with reunions. The annual breakfast brings together scholarship recipients with donors whose generosity has helped them pursue their studies.

looking ahead

Graduating classes have formal reunions every five years at the Law School — homecomings replete with otherwise hard-to-get tickets to a home football game, formal and informal get-togethers, and the other aspects of reminiscence and reinvigoration that make up the recipe for a busy, satisfying weekend reunion.

Reunions of the classes of 1949, '54, '59, '64, and '69 were held at the Law School October 1-3. Reunions of the classes of 1974, '79, '84, '89, and '94 were held November 5-7. (For those football fans among you, reunion weekends also were successful football weekends: on November 6 the Wolverines trounced Northwestern University 37-3, and on October 2 they iced Purdue's Boilermakers 38-12.)

Dean Jeffrey S. Lehman, '81, provides each gathering with an update of events at the Law School during the time since their previous reunion. Lehman's regular "Report From the Dean" acquaints graduates

Continued on page 65

Fidel Castro's dictatorship had done away with the legal institutions I knew and the intellectual freedom I had experienced. In addition, a strong spark had been ignited by [Professor Hessel E.] Yntema's writings. According to Yntema, comparative law was a method of legal research that helped to explain the order behind legal phenomena. It did so by identifying those institutions that recurred in time and space. It also helped to resolve what Yntema referred to as 'the practical problems of justice' because it revealed 'a richer version of problems and solutions than was apparent solely in one's own legal system.'"

■ "I also was fortunate to sit in on courses offered by Professors Alfred Conard, Paul Kauper, and Eric Stein. The same materials that I watched being put together by Stein and Professor Peter Hay were shortly to be used around the world. In the late 1960s, while I was helping Central American law schools modernize their teaching and research (under the auspices of U.S.A.I.D. and the University of Costa Rica Law School), I proudly witnessed how Stein and Hay's teachings had influenced not only the teaching of 'community law' in Central America, but also its drafting."

1994 graduates Jeffrey Brookner, Maria Platsis, Elaine Murphy, and Michael Ezzioni chat with Michigan Journal of Law Reform staff members Shannon Kimball and Niamh McEvoy, both third-year law students, during an open house with student groups and journals sponsored by the class of 1994.



The spirit of football competition continues as these 1989 graduates put the old form on the stand and add some informal pigskin passing to the list of reunion activities.



Carl E. Schneider, '79, the Chauncey Stillman Professor of Ethics, Morality, and the Practice of Law, answers questions about "The Law School Yesterday and Today," in a program sponsored by his graduation class.

R E U N I O N S *Continued from page 63*

with recent advances at the Law School and gives them the chance to ask questions and discuss those changes with the dean and other Law School leaders.

"This is my sixth year as dean, so five years ago I was just starting out and thinking about what direction the school should be taking," Lehman told graduates.

Among the changes over the past five years that he outlined:

- The size of the faculty has increased from 49 to 54 — 8 new faculty members joined the Law School this year, the

most in a single year in the School's history. "The students are really thrilled with the quality of the teaching. The quality of faculty remains extraordinary while at the same time it has increased in size."

- Tuition increases have been slowed to about 3 percent per year, but the cost of attending the Law School still is "breathtakingly high." Many students graduate with educational debts of \$70-80,000, and some with debts of \$100,000.

- Fortunately, however, "the market right now is very

good for our students."

- The Legal Practice Program, which has replaced the Case Club program that used third-year students to teach legal writing to first-year students, uses eight full-time faculty who are former lawyers to teach two semesters of legal writing to every first-year student. The program, which began in 1996, cannot yet provide hard data on its success in producing graduates who are better writers and better able immediately to assume the duties of lawyers. But at least one employer has said that Law School graduates are writing better than graduates of other law schools.

- In 1998 the Law School established its Center for International and Comparative Law, which serves as an umbrella for the Law School's expanding activities in the areas of international and comparative law. Over the past two years, the Law School also has added significantly to its ranks of international specialists: Robert Howse, a renowned expert on international trade; James Hathaway, a top scholar in refugee law; Mark West, who has taught and practiced law in Japan; and Daniel Halberstam, a scholar of European Union law.

- Clinical programs also have expanded, and today "about 45 percent of our students are participants in a clinical experience."

For the next five years:

- The expansion of the faculty will continue, with a goal of 60 full-time faculty members by 2004.

- A new building will be needed to supplement the Law Quadrangle structures.

- The lawsuit against the Law School's admissions policies may be over within the next five years. For the present, the suit is "an important part of life in the School," but not an overwhelming one.

The University of Michigan Law School is a special place, Lehman said. "My view is that the first thing is to build the best environment for the study of law right here, and as we do that we'll tell people about it." As a producer of lawyers, the Law School "dominates the Midwest. And more of our graduates go to the East Coast than from any West Coast school, and more of our graduates go to the West Coast than from any East Coast school."

Faculty members also participated in the reunions. In October, James J. White, '62, Robert A. Sullivan Professor of Law, spoke on "Irrepressible Humor: Law Student Behavior in the Nineties." And in November, Assistant Professor Mark D. West spoke on "The Dark Side of Private Ordering: An Institutional and Empirical Analysis of Organized Crime, or How I Learned to Stop Worrying and Love the Japanese Mafia."

CLASS notes

1949

Asher N. Tilchin, a member of Tilchin, Hall & Reynolds P.C. in Farmington Hills, Michigan, spoke at a seminar co-sponsored by the Real Property Section and Litigation Dispute Resolution Committee of the American Bar Association during its annual August meeting in Atlanta. He spoke on the topic "Can't We All Just Get Along: How Dispute Resolution Legislation/Better Drafting Will Help Common Interest Communities."

50TH REUNION

The Class of 1950 reunion will be October 13-15

1950

The Washington State Minority and Justice Commission has honored retired Washington State Supreme Court Chief Justice **Vernon R. Pearson** by dedicating its 10-year report to him. "It was in 1987 during his tenure as Chief Justice that Justice Pearson exercised his leadership with his colleagues on the Supreme Court to establish the Washington State Minority and Justice Task Force following a recommendation from the legislature," says the report, which covers the period through 1998. "With a strong commitment to fairness in all aspects of judicial activity, he gave his full support to the program. The task force was later reconstituted as the existing Washington State Minority and Justice Commission by order of the Supreme Court in 1990 and again in 1995." Pearson was named to the Washington Supreme Court in 1982 and served as Chief Justice from 1987 until his retirement in 1989.

1954

Stephen A. Bromberg, president of the Michigan law firm Butzel Long, was elected secretary of the American College of Mortgage Attorneys, a national association of leading practitioners of real property law and financial issues related to commercial real estate. A Bloomfield Hills resident, he also serves as secretary of the Detroit Symphony Orchestra.

45TH REUNION

The Class of 1955 reunion will be October 13-15

1955

Alan Z. Lefkowitz retired from the law firm Kabala & Geeseman and has a consulting practice in Pittsburgh. He also is teaching a course in art and the law in the Master of Arts Management Program at Carnegie Mellon University, Heinz School of Public Policy and Administration.

Robert C. Strodel, a Peoria, Illinois, attorney, was re-elected president of the national Civil Justice Foundation, a not-for-profit corporation devoted to the furtherance of the civil justice system by distributing grants to consumer oriented organizations for safety and consumer related programs designed to further education and assistance to the public, injured workers, and consumers.

1959

John M. Barr of the Ypsilanti, Michigan, law firm Barr, Anhalt & Associates, was elected a Fellow of the American Bar Foundation (ABF). The Fellows is an honorary organization established to encourage and support the research program of the ABF.

40TH REUNION

The Class of 1960 reunion will be October 13-15



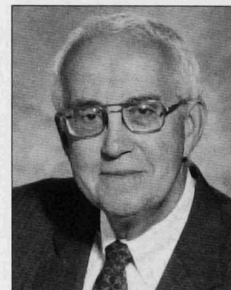
1961

Richard M. Leslie was elected to the American Bar Association House of Delegates as the Dade County Bar Association representative. He was also appointed to serve on the ABA's Council of the Torts and Insurance Practice Section task force to study multi-disciplinary practices. A Coral Gables, Florida, resident, he is senior partner with the Miami law firm Shutts & Bowen L.L.P.

Hanson S. Reynolds was elected president of the American College of Trust and Estate Council, a 2,100-selective-member organization of the nation's top trust estate and tax attorneys. He is a member of the Boston law firm Rackemann, Sawyer & Brewster.

1962

Martin J. Adelman has accepted the position of professor of law, director of the Intellectual Property Law Program, and director of the Dean Dinwoodey Center for Intellectual Property Studies at George Washington University Law School. He was previously a professor at Wayne State University Law School.



Richard A. Hyde joined the St. Louis, Missouri, law firm Armstrong Teasdale L.L.P. as of counsel in the Intellectual Property Department. He concentrates in the areas of trademarks, telecommunications, technology, software, and commercial transactions. He previously served for 14 years as counsel for Ameritech Corporation in the Chicago area.

1963

Robert L. Harmon has retired from his Chicago intellectual property law firm after 35 years of practice. He now serves as a specialist in patent infringement cases and as a trial consultant and expert witness in intellectual property matters. He also is working on his patent law treatise, *Patents and the Federal Circuit* (4th ed. 1998, BNA).

Norman Otto Stockmeyer Jr., of Lansing, was reappointed by Michigan Speaker of the House Chuck Perricone to a three-year term on the Reimbursement Committee, which meets quarterly to adjust payment rates for covered hospital services provided to Blue Cross/Blue Shield of Michigan subscribers. A member of the committee since 1982, Stockmeyer is a professor at the Thomas M. Cooley Law School.

35TH REUNION

The Class of 1965 reunion will be October 13-15

1965

Peter C. Bomberger, of the Highland, Indiana, law firm Blackmun, Bomberger & Moran, was named Diplomat of the Defense Trial Counsel of Indiana. The award is presented to members of the Indiana State Bar for career-long outstanding contributions to the representation of clients in the defense of litigation matters.

1966

Robert M. Meisner spoke on "Legal Obligations to Provide Security" at the Community Associations Institute (CAI) 47th National Conference, "Building Communities of Tomorrow," held in Atlanta. He also instructed a course on condominium operation sponsored by Oakland Community College and held in Bingham Farms, Michigan, and is serving as a 1999-2000 adjunct instructor of community association law at Michigan State University-Detroit College of Law. Meisner also spoke at the 25th annual United Condominium Owners of Michigan seminar held in Troy, on the topics "Picking a Management Company from Legal and Practical Standpoints" and "Fiduciary Duties of Directors and Co-Directors." He participated in a roundtable discussion on legal issues facing community associations at the CAI-Michigan Chapter's Conference and Trade Show in Livonia.

Robert H. McSweeney has accepted an appointment as director of Planned Giving for Linfield College, McMinnville, Oregon. He is chair of the Committee on Planned Giving for the Episcopal Diocese of

Oregon and the author of *A Planned Giving Manual for Churches*.

1967

William M. Brodhead has been elected chairman of the board of Focus: Hope, a civil rights and job training organization in Detroit. He is a shareholder in the law firm Plunkett & Cooney P.C. and serves on the boards of Covenant House Michigan, the Skillman Foundation, and Loyola High School, all in Detroit.

Michael W. Coffield received The American Inns of Court Foundation's 1999 Sherman Christensen Award during the American Inns of Court Leadership Evening hosted by U.S. Supreme Court Associate Justice Clarence Thomas at the U.S. Supreme Court. The award is bestowed annually upon a member of an American Inn of Court who has provided distinguished, exceptional, and significant leadership to the American Inns of Court movement. Coffield is with the Chicago law firm Michael W. Coffield & Associates.



Ronald R. Gilbert, of Ronald R. Gilbert P.C. in Detroit, has been re-elected to the Board of Directors of the National Spinal Cord Injury Association (NSCIA). He previously served on the board from 1986-88, before leaving to form the Foundation for Spinal Cord Injury Prevention, which he chairs. Gilbert said his return to

the NSCIA board will enhance coordination between the two organizations.

President Clinton has appointed **Sally Katzen** chair of the Interagency Committee on Women's Business Enterprise. At the time of her appointment she was counselor to the director of the Office of Management and Budget. She previously had served as deputy assistant to the President for economic policy, deputy assistant of the National Economic Council, and administrator of the Office of Information and Regulatory Affairs at the Office of Management and Budget.

Richard D. McLellan was named by the Michigan Supreme Court to a three-year term as a commissioner of the State Bar of Michigan. An East Lansing resident, he is a member of the law firm Dykema Gossett P.L.L.C.



Jerry Pratter has received the Jefferson Fordham Society Lifetime Achievement Award, given by the American Bar Association Section of State and Local Government Law. The award recognizes outstanding contributions to the practice of state and local government law. Pratter is a lawyer with The Stolar Partnership in St. Louis, Missouri.



Ronald L. Rose has been inducted into the American College of Bankruptcy, an honorary professional and educational association of bankruptcy and insolvency professionals. He is a member of the law firm Dykema Gossett P.L.L.C. and co-leader of the firm's Bankruptcy Practice Group. His practice focuses on bankruptcy-related matters, and he heads a team of attorneys that advises major retailers regarding consumer credit issues.

1968

David L. Callies was made a Life Fellow of Clare Hall by the Governing Body at the University of Cambridge. Callies is Kudo Professor of Law at the William S. Richardson School of Law, the University of Hawaii at Manoa.

Ronald L. Ludwig has retired from Ludwig Goldberg & Krenzel, the San Francisco law firm he co-founded in 1977, and is now managing partner of Ludwig Investment Partners, a private San Francisco equity investment partnership.

Milwaukee County Circuit Court Judge **Michael P. Sullivan** has been named the 1999 State Bar of Wisconsin Judge of the Year. The honor recognizes judges who exceeded the call of judicial office and improved the judicial system during the past year. Milwaukee County Circuit Court Judge since 1983, Sullivan has been ranked at the top of all the

Law School graduates do well at the ballot box

At least two Law School graduates won mayoral posts in last fall's elections, and a third has ended his early run for Congress to help preserve his party's unity and funds for the November 2000 election.

John H. Logie, '68, easily won his third term as mayor of Grand Rapids by sweeping the four-person primary with 63 percent of the vote. At the completion of his current four-year term, Logie will become Grand Rapids' longest-serving mayor. He is a partner at Warner Norcross & Judd L.L.P.

In Indianapolis, Indiana, **Bart Peterson**, '83, who heads a family-owned real estate company and served as chief of staff to former Gov. Evan Bayh, ended a 36-year Republican hold on City Hall by winning 52 percent of the vote in a race against Indiana Secretary of State Sue Anne Gilroy.

Had the incumbent mayor chosen to seek a third term, Peterson would have faced fellow Law School graduate Stephen Goldsmith, '71, who occupied City Hall from 1992-99.

Meanwhile, **Chris Cohen**, '67, who announced in March 1999 that he would run for Illinois' 10th District congressional seat in November 2000 — against Republican incumbent and fellow Law School graduate John Porter, '61, whom both parties considered nearly unbeatable — has withdrawn from the race in the interest of Democratic Party harmony.

Porter's surprise announcement last fall that he would not seek re-election suddenly placed Cohen in the position of facing a divisive primary. "With John Porter now out of the race, the political landscape looks good for a Democratic victory next November," Cohen said, but added that a bruising Democratic primary could hurt those chances.

Cohen, a practicing attorney who is of counsel to the Chicago law firm of Buyer & Ruben, withdrew from the race in late November. "I did not enter the race to run against a fellow Democrat and I do not wish to do so now," he said.

Milwaukee County judges in judicial polls. He helped develop *pro se* litigant forms that are used in the Milwaukee County Family Court and are being considered for statewide use, and he co-produced an instructional video on using the forms.

1969

Peter R. George has been appointed as St. Clair County, Michigan, chief prosecuting attorney by Judge Elwood Brown, who was formerly the prosecuting attorney. George is completing Judge Brown's term, which ends December 31, 2000.

David L. Haron recovered \$1.372 million on behalf of the U.S. government in *U.S. ex rel. Mary R. Lent v. Dr. Donald E. Berman*, SD NY Case No. 97 Civ 5096 (BSJ). Berman allegedly submitted unbundled claims for multi-channel blood profile tests that should have been billed as single tests; the suit was filed by Lent, a former employee. Haron, who specializes in cases brought under the False Claims Act, is senior vice president in the Troy, Michigan, law firm Stefani, Haron & Hall P.C.

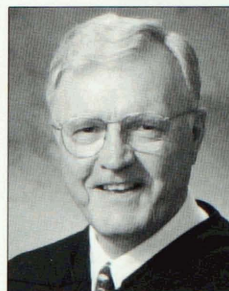
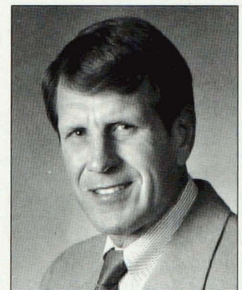
30TH REUNION

The Class of 1970 reunion will be October 13-15

1972

The Honorable **Iraline G. Barnes** has joined the Washington, D.C., office of the law firm Rosenman and Colin L.L.P. as special counsel in the Trusts and Estates Department. An associate judge for more than 10 years, Barnes was the presiding judge of the Probate and Tax Division of the Superior Court of the District of Columbia.

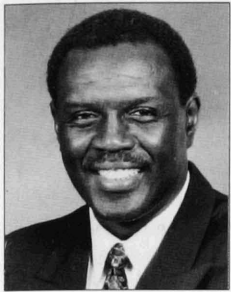
Four attorneys headed by **Laurence B. Deitch**, a corporate, banking, real estate, and gaming law specialist, have joined the Detroit office of Bodman, Longley & Dahling L.L.P. A University of Michigan regent, Deitch is a partner at Bodman. He previously practiced for 20 years in Southfield, Michigan. Deitch played a pivotal role in the development of the casino gaming industry in Detroit, authoring the proposal that was enacted into law as the Michigan Gaming Control and Revenue Act.



1970

Robert O. Wefald has been elected as a district court judge in Bismarck, North Dakota.

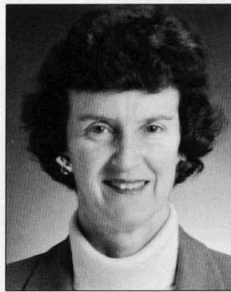
Bob McCoy, who has extensive experience in telecommunications industry legal issues, has been appointed general counsel of Williams Communications Group Inc., based in Tulsa, Oklahoma. For the past two years, he has been Williams' vice president for performance management.



1973
Donald Hubert, principal of Donald Hubert and Associates in Chicago, has been inducted as a Fellow of the International Academy of Trial Lawyers, whose membership comes from 30 countries and is limited to 500 attorneys from the United States. He also has been named by Chicago Mayor Richard Daley to a two-year term on the Chicago Public Library Board of Directors.

1974
Clarence L. Pozza Jr. of Ann Arbor was appointed chairman of the managing directors of the law firm Miller, Canfield, Paddock and Stone P.L.C. He also is co-chair of the Commercial Litigation and Dispute Resolution Group and chair of the Retirement Benefits Committee. The previous chairman of the managing directors, Detroit resident **Thomas W. Linn**, '76, has been appointed as chief executive officer of the firm. Linn, who practices in the areas of finance and development, is also the head of the Banking Section.

the Food and Drug Law Practice at the law firm Sidley & Austin, Washington, D.C., and is co-author of a book on the Dietary Supplement Health and Education Act.



Virginia F. Metz was elected chair of the Labor and Employment Law Section of the State Bar of Michigan and was named chair of the Local Rules Advisory Committee of the U.S. District Court for the Eastern District of Michigan. She is an attorney with the labor and employment law firm Vercruysee Metz & Murray.



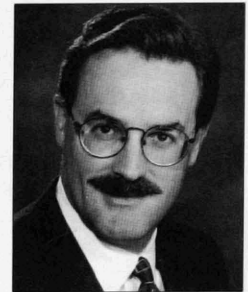
Michael H. Runyan was elected to a three-year term on the Defense Research Institute (DRI) board of directors as one of 35 members representing the Northwest Region (Washington, Oregon, Alaska, Idaho, Montana, and Wyoming). Runyan is partner in the Seattle office of Lane Powell Spears Lubersky L.L.P. and received the 1999 DRI State Leadership Award.

Stan Sutherland has accepted the position of deputy general counsel in the Law Department of S.C. Johnson & Son Inc. of Racine, Wisconsin, where he has been employed since 1978. He is lead counsel for the Regulatory Practice Group, advising on a variety of matters such as advertising, marketing, environmental, and other regulatory compliance matters. During the past two years he has been heavily involved in the department's reorganization and strategic planning process.

1976
Nels Carlson has been granted designation as a Certified Financial Planner and is conducting business in Novi, Michigan, as A. Nels Carlson, J.D., C.F.P., Attorney and Financial Counselor. He offers estate, taxation, retirement, and financial planning.

William R. Jansen has joined the law firm Warner Norcross & Judd L.L.P. as a partner in the Metro Detroit (Southfield) office. He practices in the areas of commercial litigation, commercial law, corporate law, and oil and gas law. He resides in Jackson, Michigan, with his wife, Becky, and their four sons.

1979
Lindsey D. Alton has joined the Pittsburgh office of the law firm Schnader Harrison Segal & Lewis L.L.P. as counsel. She focuses her practice on securities law, including securities offerings by public and private companies, regulatory reporting, and compliance.



Jeffrey T. Johnson was elected chair of the Colorado Association of Commerce and Industry (CACI), the statewide chamber of commerce and manufacturers' association for Colorado. He previously served as legal counsel to CACI. He is a partner with the Denver-based law firm Holland & Hart, where he practices labor and employment law and represents employers throughout the Rocky Mountain region.

Kevin M. McCarthy was appointed to the board of trustees of the Leelanau School, a private boarding school for grades 9-12, in Glen Arbor, Michigan. He also was appointed to a three-year term as co-chair of the American Bar Association's Labor and Employment Law Section Subcommittee on Professional Responsibility, which monitors and makes recommendations on ethics issues related to labor and employment law arbitrators, mediators, and practitioners. A principal in the Kalamazoo office of Miller, Canfield, Paddock and Stone P.L.C., McCarthy practices in the Labor and Employment Law Practice Group.

The Citizens Research Council of Michigan has named **Amanda Van Dusen** of Pleasant Ridge as the first woman to chair the 82-year-old organization. She is a principal in the Detroit office of Miller, Canfield, Paddock and Stone P.L.C. where she is deputy leader of the firm's Public Law Practice Group.

25TH REUNION

The Class of 1975 reunion will be September 8-10

1975
Scott Bass was reappointed adjunct professor at the Georgetown University Graduate School of Public Policy. He heads

CLASS notes

20TH REUNION

The Class of 1980 reunion will be September 8-10

1980



Real estate attorney **Todd J. Anson** has joined with Steven L. Black to form the new venture Cisterra Development L.L.C. to support the expansion of international global networking giant Cisco Systems Inc., in facilities on the East Coast, in the Southwest, and in Europe. Anson was formerly managing partner of the San Diego office of Brobeck, Phleger & Harrison L.L.P. and is a longtime legal counsel to Cisco Systems.



G.A. Finch has been elected to membership on the board of trustees of Hampshire College, Amherst, Massachusetts. A Park Ridge, Illinois, resident, Finch is a partner in the Chicago law firm Querrey & Harrow, where he concentrates his practice in corporate, real estate, and employment law.

Ronald I. Heller, of Torkildson Katz Fonseca Jaffee Moore in Honolulu, is listed in *Best Lawyers in America*. His practice includes litigation of contested tax matters, business and commercial litigation, and tax work.

Alan R. Perry Jr., formerly a partner of Kilpatrick Stockton L.L.P., has joined the law firm Chitwood & Harley as a partner. The firm specializes in plaintiffs' antitrust and securities class actions. He lives in Atlanta with his wife, Beth, and their two children.

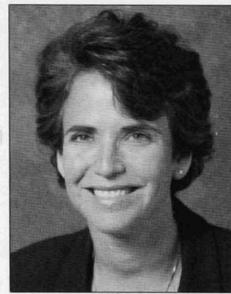
1981

Kevin D. Anderson, formerly a partner in the Chicago office of Foley & Lardner, has joined the Washington National Tax Office of the accounting firm Deloitte & Touche L.L.P. as a partner. He specializes in accounting methods and periods, as well as tax issues arising in mergers and acquisitions.

Blue Heron Theatre of New York has named **Marianne Gaertner Dorado** as its president. She is a corporate finance partner at the law firm she founded, Chimel Dorado of New York City, and previously was Blue Heron's director and legal advisor.

Andrew E. Grigsby was appointed by Florida Governor Jeb Bush to serve a four-year term as a member of the Judicial Nominating Commission for the Third District Court of Appeals. The commission makes recommendations to the governor for candidates to fill vacancies on the intermediate court of appeals which covers Miami-Dade and Monroe Counties. A partner with the Chicago-based law firm Hinshaw & Culbertson, Grigsby concentrates his practice in civil litigation, including matters

involving insurance coverage, products liability, agents' errors and omissions, and transportation accidents.

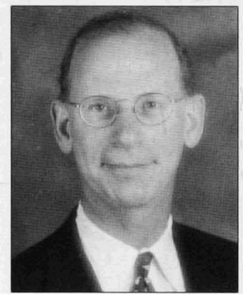


Marissa W. Pollick of Ann Arbor was elected president of the University of Michigan's "M" Club, an honorary organization for varsity letter winners. She is the first woman to serve as president in the club's 86-year history. Pollick is a shareholder with the law firm Butzel Long, practicing in the areas of business litigation and construction law.

Susan A. Wolf has become a partner in the Business and Securities Law Department of the Beverly Hills, California, law firm Ervin, Cohen & Jessup L.L.P. She will continue to practice in the areas of mergers and acquisitions, corporate finance, secured and unsecured corporate and commercial lending, structuring and administration of limited liability companies, limited and general partnerships, and corporations. She will also act as "outside general counsel" for individuals and closely-held organizations. Wolf previously was a partner with Loeb & Loeb L.L.P.

1982

Daniel J. Bergeson's law firm was featured in the September 1999 issue of *The American Lawyer*, in the article, "Special Report: Lawyers for the New Economy." Bergeson & Eliopoulos L.L.P., located in Silicon Valley, specializes in serving the litigation needs of high technology and emerging growth companies.



Barry H. Epstein has become a partner with the Oakland, California, law firm Fitzgerald, Abbott & Beardsley L.L.P., where he is head of the Environment, Natural Resources, and Energy Practice Group. His practice focuses on all aspects of environmental, natural resources, and land use law.

Howard A. Gutman is the author of *The Year 2000 Legal Handbook* (Business Laws, Incorporated, 1998). He recently appeared on the television show "Good Day New York" to discuss the year 2000 problem and his book. Gutman heads an office in Parsippany, New Jersey, emphasizing civil litigation and intellectual property.

Matthew J. Kiefer, a partner in the Boston law firm Goulston & Storrs, is teaching a course at the Harvard Graduate School of Design on "Urban Projects and the Development Approval Process."

David B. Sandalow has been confirmed by the U.S. Senate as assistant secretary of state for oceans and international environment and scientific affairs. He previously was associate director for the global environment of the White House Council on Environment Quality and senior director for environmental affairs of the National Security Council.

Jordan S. Weitberg received the Legislative Recognition Award from the New Jersey State Bar Association, which is given to members who have made significant and outstanding contributions to promoting the association's legislative interest, historic mission, and the public good. Weitberg is a partner with the Morristown, New Jersey, law firm Bressler, Amery & Ross, where he heads the firm's trusts and estates and taxation practices. He is a resident of Bridgewater.

and Eastern Europe and the former Soviet Union. Maurer taught an agricultural law course at Iowa State University for the 1999 spring semester, and previously practiced with the California law firm Friedemann, Maurer & Dahle.



Ernest J. Newborn Jr. has joined the San Francisco-based brokerage of insurance and financial services USI Insurance Services Corp. as senior vice president and general counsel. He will use his expertise in corporate governance, litigation, securities, and mergers and acquisitions to enhance USI's growth strategy. He also will direct the corporation's retained law firms, enhancing USI's operational controls. He was previously vice president, general counsel, and corporate secretary with Acordia Inc., Indianapolis, Indiana.

1984

Gary A. Rosen has joined the Litigation Department of Saul, Ewing, Remick & Saul L.L.P. as a partner in the Philadelphia office. He concentrates his practice on patent infringement and other intellectual property and complex commercial litigation. He was formerly affiliated with the law firm Conolly Epstein Chicco Foxman Oxholm & Ewing, where he chaired the Intellectual Property Practice Group and was a member of the Executive Committee.

15TH REUNION

The Class of 1985 reunion will be September 8-10

1985

Jonathan B. Frank has formed Jonathan B. Frank P.C. in Troy, Michigan. The firm concentrates on litigation of business, real estate, and employment matters, as well as preventive counseling, and also provides arbitration, mediation, and facilitation services in business cases.

Dave Kopel is the research director of the Independence Institute, a free-market think tank in Golden, Colorado (<http://i2i.org>). He is also an adjunct professor at New York University School of Law, and is currently co-writing (with Ronald K. Noble) the coursebook *Gun Control and Gun Rights*.



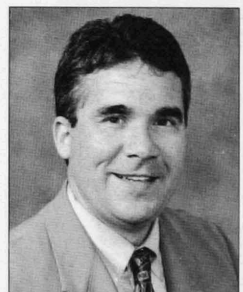
Laura Kelsey Rhodes celebrated the third anniversary of the founding of her litigation firm, Albright & Rhodes L.L.C. in Rockville, Maryland. The firm handles criminal and civil litigation, immigration, and family law matters. Rhodes recently completed her second term on the Governor's Commission on Hispanic Affairs, and is the second vice president of the Maryland Criminal Defense Attorneys' Association.

Hilary Mason Rush, a solo practitioner in New York City, was appointed co-chair of the Trusts and Estates Committee of the New York Women's Bar Association. She also is an adjunct professor of business law at the Borough of Manhattan Community College. A Manhattan resident, she practices in the areas of estate planning, business law, and real estate law.

1986



Amy S. Fariior, of the Tampa, Florida, law firm Schropp, Buell & Elligett, was appointed editor of the Hillsborough County Bar Association monthly publication, *The Lawyer*, for 1999-2000.



Michael P. O'Neil has joined the Indianapolis law firm Sommer & Barnard, where he will concentrate his practice in bankruptcy and commercial litigation. He was previously a partner with Freeborn & Peters. O'Neil also is chairman of Pathfinders International, a non-profit corporation that provides training and financial support to pastors and special ministry projects in troubled areas of the world.



1983

Michael T. Maurer, through the Civic Education Project, has accepted a position on the International Business Faculty at Tbilisi State University, Georgia, Asia, for the 1999-2000 academic year, teaching law and economics. The Civic Education Project, a nonprofit foundation, sponsors instructors in the social sciences at universities in Central

CLASS notes

1987

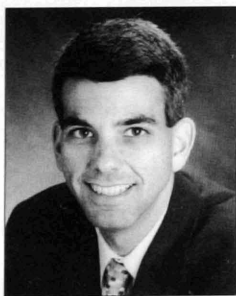
Carolyn Balster Evani was installed as president of the Junior League of Phoenix Inc. She is an associate in the insurance defense section of Peshkin, Kotalik and Burghart P.C. in Phoenix, Arizona.

Laura Thomas Rivero has joined the appellate division of the United States Attorney's Office for the Southern District of Florida in Miami. She was previously a shareholder with Akerman Senterfitt & Eidson P.A. in Miami.

1988

Martin R. Castro, a partner at Baker & McKenzie in Chicago, is chairing the Hispanic Lawyers Scholarship Fund of Illinois. Established in 1996, the organization annually awards scholarships and fellowships to deserving law students.

The appointment of **David Copley Forman** to partnership in the law firm Stoel Rives L.L.P., of Portland, Oregon, was incorrectly listed in the 1998 portion of Class Notes in the fall 1999 issue of *Law Quadrangle Notes*. Forman graduated from the Law School in 1988. *Law Quadrangle Notes* regrets the error.



Scott M. Kosnoff was appointed chair-elect of the American Bar Association's Public Regulation of

Insurance Law Committee. The committee addresses issues involving all insurance regulatory matters at the state and federal level. He will assume the responsibilities of chair in August 2000. Kosnoff is a partner with the Indianapolis office of Baker & Daniels, where he concentrates his practice on the public regulation of insurance, insurance insolvency, health care, and litigation.

Aidan Synnott, LL.M., was elected as a partner in the law firm Paul, Weiss, Rifkind, Wharton & Garrison, New York. His practice focuses on antitrust and trade regulation issues, intellectual property, and complex commercial litigation.

Jerianne Timmerman has become associate general counsel at the National Association of Broadcasters, the leading trade association for the television and radio broadcast industry. Her work focuses on broadcast regulation and First Amendment issues. She was previously a senior attorney with the Federal Communications Commission, Washington, D.C.

1989

Katarina Mathernova, LL.M., has left private practice in London and moved to Bratislava, Slovakia, to become special advisor to Deputy Prime Minister for Economic Affairs Ivan Miklos. She is involved in issues of bank and enterprise restructuring, investor climate, corruption, and relations with EBRD and the World Bank.

10TH REUNION

The Class of 1990 reunion will be September 8-10

1990



Jeffrey J. Brown has joined Electronic Data Systems Corporation as a senior attorney, Legal Affairs Division, in Troy, Michigan. He was previously a principal in the Bloomfield Hills office of Miro Weiner & Kramer.

Jerry Gidner was named chief of the Division of Environmental and Cultural Resources Management at the Bureau of Indian Affairs, Department of the Interior. The division coordinates the bureau's compliance with environmental statutes and assists tribes in complying with statutes, including pollution control statutes, the National Environmental Policy Act, the Endangered Species Act, and cultural resource protection acts, such as the Archaeological Resources Protection Act and the Native American Graves Protection and Repatriation Act.

Scott M. Hollander has become executive director of Legal Aid for Children in Pittsburgh. The organization has 10 attorneys and represented 5,000 children last year.

It was incorrectly reported in the fall 1999 issue that **David J. Kaufman**, who has been appointed editor in chief of the American Bar Association section of business law magazine *Business Law Today*, is with the Los Angeles office of Katten Muchin & Zavis. He is with the firm's Chicago office. *Law Quadrangle Notes* regrets the error.



Danial J. Kim, deputy executive director for the State Bar of Michigan, received the 1999 Gold Circle Award for conceiving, developing, and launching a new electronic publication for the State Bar, the *e-Journal*. The *e-Journal* is a daily e-mail publication sent to every member who provides the State Bar with an e-mail address. It includes information such as case summaries, ethics opinions, discipline reports, and information on bar events. Non-members may sample the *e-Journal* at www.michbar.org. The Gold Circle Award is presented by the Communications Section of the American Society of Association Executives in recognition of excellence in association communications. Kim also participated in the "Focus on Excellence" program during ASAE's December 1999 Management and Technology Conference in Indianapolis.

Timothy W. Brink and **Molly McGinnis Stine** have been elected partners in the Chicago office of Lord, Bissell & Brook.

Kenneth A. Wittenberg has become a shareholder in the Portland, Oregon, office of the Pacific Northwest firm Garvey, Schubert & Barer. He practices in the areas of complex civil litigation and white collar criminal defense.

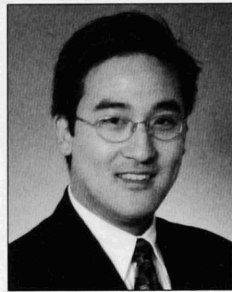
1991

Wayne D. Katz has become a partner in the law firm Proskauer Rose L.L.P. Based in New York, he works in the Corporate Department, where he specializes in mergers and acquisitions and the general representation of clients in the sports and media industries.

1992

Victoria T. Aguilar was named senior director and chief legal counsel of Regulatory and Government Affairs for First World Communications Inc. of Greenwood Village, Colorado. She is responsible for developing and promoting the company's public policy initiatives and advocacies while ensuring compliance with state, federal, and municipal regulations. She was previously vice president of interconnect implementation at US WEST Communications.

Christopher (Pugh) Ballard has been elected to be a shareholder in the Lansing firm of Foster Swift, Collins & Smith, P.C. His practice focuses on estate planning, business planning, and tax.



Anthony P. Cho has joined the Bloomfield Hills, Michigan, office of Howard & Howard, where he focuses his practice on antitrust, intellectual property, telecommunications, and commercial litigation. He resides in Beverly Hills with his wife, Tricia Anne, and daughter, Madison Alana.

Steven Katz has been made a partner in Sideman & Bancroft in San Francisco. He specializes in tax controversies.

Daniel F. Lazarus was named general counsel and vice president for Regulatory Affairs for Alaron Trading Corporation, Chicago, a national online and full-service retail futures and futures options brokerage firm and a subsidiary of Alaron.com. In his new position, he will be responsible for all compliance, regulatory, and corporate matters for Alaron Trading and Alaron.com. Lazarus previously worked as in-house counsel at the Chicago Mercantile Exchange.

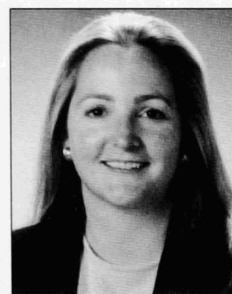
1993

Jeffrey D. Moss was elected a shareholder in the Bloomfield Hills, Michigan, law firm Shapack, McCullough & Kanter P.C. He recently received his LL.M. in taxation from Wayne State University Law School and focuses his practice in real estate, corporate transactions, and estate planning.

1994

Julia Ernst has joined the Center for Reproductive Law and Policy as a legislative counsel working on international women's human rights issues for the Washington, D.C., office. Her responsibilities include analyzing legislation and governmental policies concerning women's reproductive rights and educating governmental officials about issues related to international women's human rights, particularly reproductive rights. Ernst was previously an attorney with the Detroit law firm Dickinson Wright P.L.L.C.

Mark P. Hunting has joined Miller, Johnson, Snell & Cumiskey P.L.C. as an associate and will continue his practice in litigation handling criminal defense, commercial, real estate, family law, and personal injury matters.



Barbara R. Lentz has joined Blanco Tackabery Combs & Matamoros P.A. as an associate attorney in the Litigation Practice Group. She concentrates her practice in labor and

employment law. Lentz was formerly associated with the Atlanta-based law firm Ogletree Deakins Nash Smoak & Stewart.

5TH REUNION

The Class of 1995 reunion will be September 8-10

1995

Daniel Moonay has accepted a position as vice president and counsel in the Defined Benefits Group at Merrill Lynch, Princeton, New Jersey. He was previously an attorney in the Investment Management Group at Drinker, Biddle & Reath, Philadelphia.

1996

David B. Cade joined General Motors' legal staff as a member of the General Commercial and Government Contracts Group. His responsibilities include joint ventures programs and teaming arrangements, advanced technology development, commercial contracts for indirect (non-automotive) purchasing, and development of policy positions with respect to proposed changes to the Uniform Commercial Code.

CLASS notes

1997

Megan Auchincloss has joined the law firm Morrison & Foerster L.L.P. in San Francisco as an associate.

Eric E. Newman has joined the Chicago firm Bates Meckler Bulger & Tilson as an associate, specializing in commercial litigation. He was previously affiliated with the Chicago law firm Tenney and Bentley.

1998

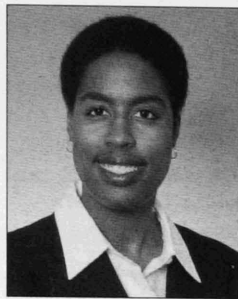
Noah D. Hall has joined the Minneapolis office of Leonard, Street and Deinard as an associate. He practices in the Public Law Department in the areas of environmental law and litigation, land use, energy, and transportation law. He previously clerked for the Hon. Chief Justice Kathleen A. Blatz of the Minnesota Supreme Court.

Jeremy B. Hayden has joined the San Diego office of Brobeck, Phleger & Harrison L.L.P. in the Business and Technology Group.

Darius J. Mehraban of Brooklyn, New York, has joined the Corporate Department of Simpson Thacher & Bartlett. He was previously affiliated with Dewey Ballantine L.L.P.

1999

Jennifer A. Diamantis has joined Schnader Harrison Segal and Lewis L.L.P. as an associate in the Philadelphia office. She is a member of the Litigation Department.

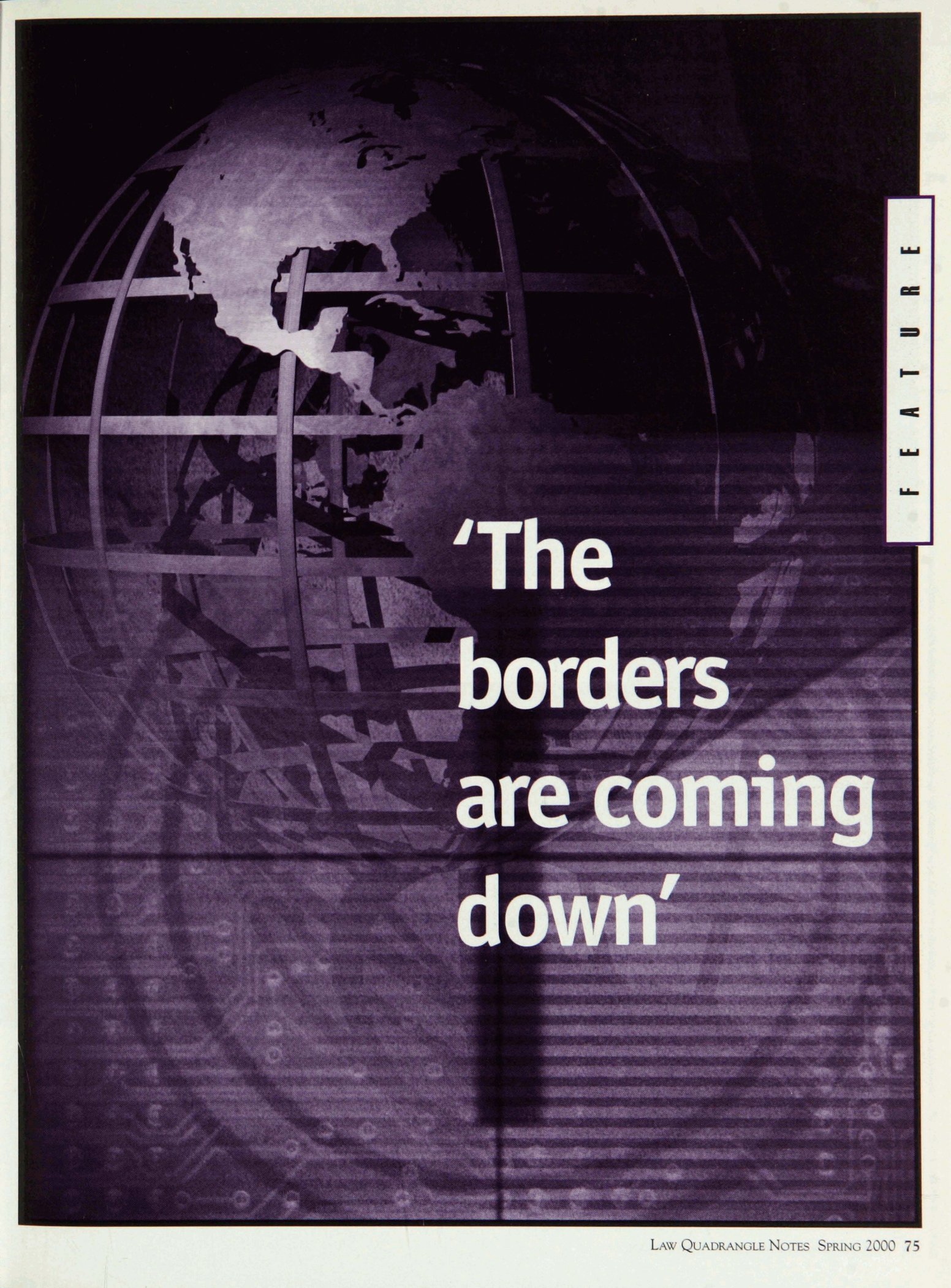


Damali A. Sahu concentrates her practice in corporate and business law in the Bloomfield Hills, Michigan, office of Howard & Howard Attorneys P.C. She was recently admitted to the State Bar of Michigan.

Stephanie Schlau has joined the Houston office of Fulbright & Jaworski L.L.P. An associate, she focuses her practice on trusts and estate matters.

IN memoriam

'25	Edward C. McCobb	November 16, 1999
'26	Royal A. Oppenheim	July 15, 1999
'27	LeRoy R. Weis	October 18, 1999
'28	Theodore P. Ryan	September 13, 1999
'31	David I. Linebaugh	July 27, 1999
'34	Earl V. Rupp	November 29, 1998
'37	Theodore R. Vogt	October 6, 1999
'38	William R. Bishop	July 23, 1999
	Walter J. Jason	June 6, 1999
	Gerald M. Stevens	March 15, 1999
'40	James J. Brown	February 24, 1998
	Edward M. Watson	January 9, 1999
'41	Brooks K. Johnson	May 11, 1999
	Donald A. MacHarg	August 31, 1999
'42	Richard W. Bryant	August 2, 1998
	Richard A. Nash	March 5, 1999
'43	Gerald B. Hatch	July 23, 1999
'44	George W. Stengel	November 11, 1999
'46	Eugene V. Higgins	July 21, 1999
	Leo W. Leary	December 19, 1998
'47	Ernest Getz	June 29, 1999
	C. H. Mullen	November 11, 1999
	Richard D. Tedrow	April 26, 1999
'48	James M. George	October 31, 1999
	W. Burnett Harvey	October 27, 1999
	F. William Hutchinson	July 20, 1999
	Frances M. Ryan	March 3, 1998
	Robert A. Straub	July 18, 1999
'49	Ernest F. Crane	August 9, 1999
	Robert M. Jacob	July 31, 1999
'50	Sister Maristella Richardson	October 5, 1999
	John C. Walker	December 1, 1999
	Leo Weiss	February 15, 1999
'51	F. Hubert Mather	November 28, 1999
	Philip H. Robertson	October 17, 1999
'52	Kenneth A. Ackley	May 27, 1999
	William R. Jacobson	August 21, 1999
'54	Roger G. Connor	July 4, 1999
	Preston L. Niemi	December 9, 1999
	Philip A. Young	June 11, 1998
'55	Edward Z. Kulinski	September 19, 1999
'56	Eugene D. Buckley	October 14, 1999
	E. William Crotty	October 9, 1999
'57	Roscoe H. Fales	November 17, 1999
	Robert B. McAlister	December 10, 1999
'59	Jared E. Collinge	April 30, 1998
'60	Shiv Dayal	
	Robert H. Gibson	October 9, 1999
	J. L. Mayberry	August 27, 1999
	David Q. Reed	July 27, 1999
'61	Sargent Karch	November 28, 1999
	Bernard E. Lyons	January 23, 1998
'62	Joel M. Boyden	September 11, 1999
'63	Byron E. Bronston	November 22, 1999
'64	Richard P. Riordan	April 17, 1999
'69	David L. Carpenter	September 6, 1999
	Bruce H. Hurst	December 8, 1999
'70	George S. Clark	October 6, 1999
'77	Margaret Jean Yanow	May 25, 1998
'87	Kevin L. Beatty	March 16, 1999
'89	Michael John Byrnes	September 15, 1999
	Douglas Grier	August 31, 1999
'94	Jamie B. Fields	November 13, 1999



**'The
borders
are coming
down'**

**NATO action in Kosovo.
International law in conflict
with national sovereignty.
Environmental standards —
do they ignore borders?
Do members have a right to
withhold dues payments
to the United Nations?**

**Unilateral or international?
How do you measure?**

These and other issues are part of the globalizing of economies and cultures that is raising new — and fundamental — questions about the traditional roles of nation states, national legal systems, and nation-based trading systems. Such issues were the fodder for rich discussion during a major international symposium that took place at the Law School in September. “The Roles and Limits of Unilateralism in International Law, A United States-European Symposium” drew speakers and sponsorship from both sides of the Atlantic.

The Law School’s Center for International and Comparative Law, now in

its second year, co-sponsored the program with the *European Journal of International Law*. In appropriate recognition of the multinational nature of the program, panel discussions and other portions of the two-day program brought together U.S. and European perspectives for each discussion.

The multiple perspectives on the program were evident from the start, with a two-part introduction and keynote address by Michael Reisman of Yale Law School and Pierre-Marie Dupuy of the Université Panthéon-Assas-Paris II.

Since World War II there has been an expansion of actions that previously would have been considered violations of national sovereignty, Reisman said. “What we seem to be seeing is states engaging in humanitarian action . . . not because they want to, but because they are forced to by larger political processes.”

To Dupuy, the Gulf War early in the 1990s falsely foreshadowed growth in international cooperation because by the end of the 1990s actions like NATO’s intervention in Kosovo reflected “a kind of re-birth” of unilateral action. Dupuy said that NATO’s intervention in Kosovo violated UN rules but did so for reasons that support the UN.

International action is not legitimate outside of the UN, Dupuy said. Countered Reisman, “I think, Pierre, that you should re-think legitimacy outside of the UN.”

Programs during the symposium included two-part discussions of international economic and environmental law, the United Nations and the maintenance of peace, and international law making. Christine Chinkin, an Affiliated Overseas Faculty member at the Law School who also teaches at the London School of Economics, delivered the mid-symposium address on “The State that Acts Alone: Bully, Good Samaritan, or Iconoclast?” (See story on page 78.)

In the first of the two sessions on the UN, which focused on “unilateral action based on no UN mandate or going well beyond a limited one,” Ruth Wedgwood of Yale Law School pointed out that NATO action in Kosovo was “closely bracketed on either side by the Security Council.” The Security Council did not reject the intervention, she explained, and afterward embraced its results. “Unilateralism really does deserve a friend in court,” she said.

Speaking from a different perspective, Vera Gowlland-Debbas of the Institut des Hautes Etudes Internationales in Switzerland said that Security Council authorizations can approve actions that otherwise would be illegal.

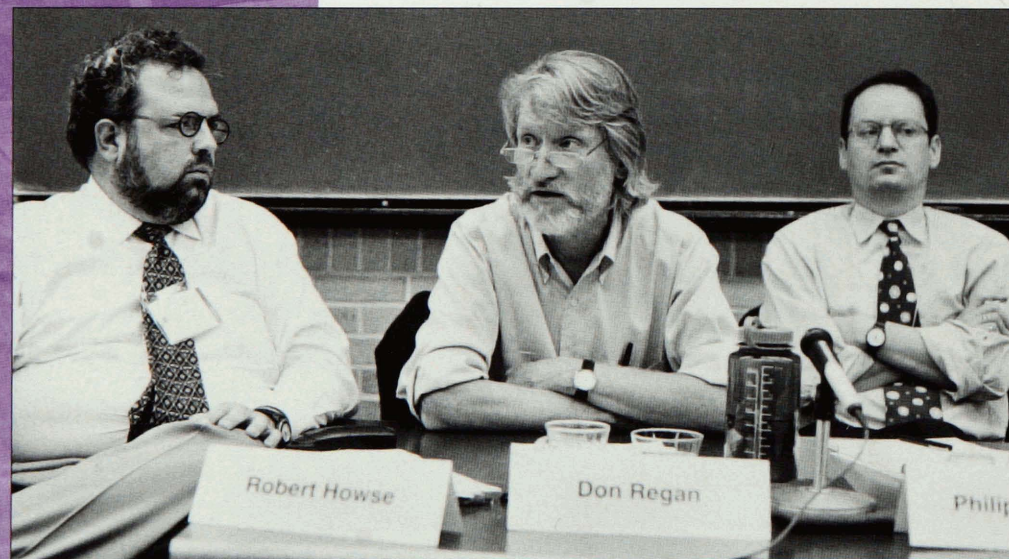
Commentator Alain Pellet of the Université de Paris X, left no doubt of his criticism of NATO’s action in Kosovo and the Security Council’s acceptance of it. “Is it satisfactory? I think not,” he said of the

Security Council’s decision against criticizing NATO intervention. As for a group of states acting collectively, with or without international approval, he said: “This form of unilateralism, for us, is unacceptable and must be rejected.”

The second session on the UN focused on “The United Nations and the Maintenance of Peace.” Allan Gerson of the Council on Foreign Relations and former counsel to UN Ambassador Jeanne Kirkpatrick, said both major political parties have voted to withhold funding from the UN. He said the U.S. debate over payments to and participation in the UN reflects the continuing conflict between James Madison’s view of the United States’ “special role” in world affairs and Woodrow Wilson’s belief that the United States must be a partner in international cooperation. “Overall, I think that there has been a tendency to have the Wilsonian point of view dominate,” Gerson said.

Gerson’s European counterpart in the discussion, Francesco Francioni of the University of Siena, said signees to the UN charter have signed a treaty and are obligated to pay the shares the treaty levies. However, he said, the UN has no effective way to collect its assessments.

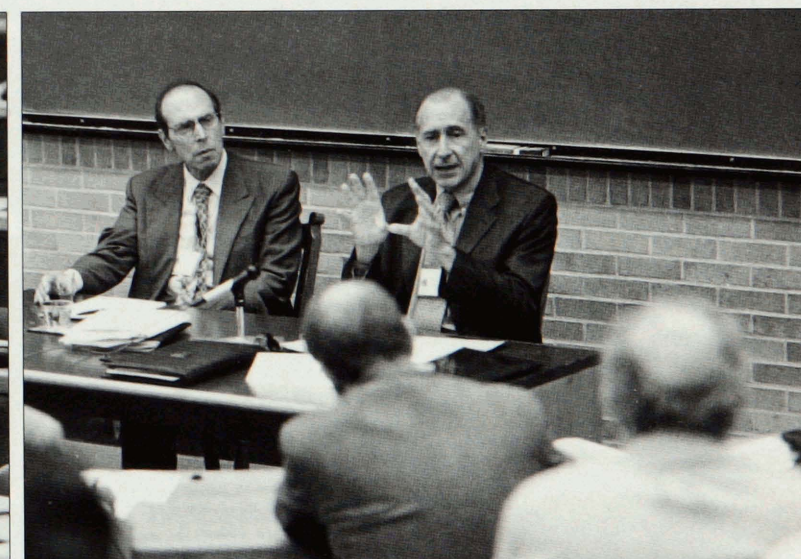
It is important that the funding problem be solved, he said. “I think the UN is still the only institution that guarantees a certain equilibrium and stability in the world.” ■



Donald Regan, the William W. Bishop Jr. Collegiate Professor of Law, takes his turn expressing the U.S. perspective on the issue of “Unilateralism in International Trade: What Place Can It Have in Light of the Emerging Multilateral Regime?” At left is Professor Robert Howse, who teamed with Regan in the presentation. At right is Philippe Sands of SOAS, University of London, who discussed the European perspective.



Affiliated Overseas Faculty member Bruno Simma poses a question during a session of the symposium “The Role and Limits of Unilateralism in International Law,” held at the Law School in September.



Michael Reisman of Yale Law School discusses the U.S. perspective while Pierre-Marie Dupuy of the Université Panthéon-Assas-Paris II awaits his turn to express the European perspective in their symposium introduction and keynote address on “Unilateralism in International Law: Its Role and Limits.”

Affiliated Overseas Faculty member Christine Chinkin, who was the L. Bates Lea Visiting Professor of Law during the fall term, has studied the role of national action in the international arena with the trained eye of a specialist. And she says such action is so complex and dynamic that it cannot be categorized.

Chasing an elusive quarry

As midday speaker for the symposium on “The Role and Limits of Unilateralism in International Law,” Chinkin, who also is a professor of international law at the London School of Economics, laid out the difficulties of categorizing action — or inaction — by a single nation or small group of nations that has international impact on many nations.

“The concept of unilateral state action has become increasingly fashionable but correspondingly elusive in terms of categorization,” Chinkin began her talk, called “The State that Acts Alone: Bully, Good Samaritan, or Iconoclast?” She noted that the International Law Commission’s Special Rapporteur on Unilateral Acts similarly had bogged down and finally said in 1998 that “substantive unilateral acts are diverse in their nature and that they may



L. Bates Lea Visiting Professor Christine Chinkin, an Affiliated Overseas Faculty member at the Law School, explores the difficulties of defining unilateral action during her midday address to the symposium on “The Role and Limits of Unilateralism in International Law.”

be understood to fall within several categories at the same time, though it is also difficult to pin them down and place them in a specific category.”

In her own effort to unravel the conundrum, she discussed three actions of international import — U.S. action to back pharmaceutical companies in their efforts to prevent South Africa from acquiring low-cost AIDS medications; NATO intervention in Kosovo; and the longstanding refusal of international bodies to intervene in East Timor.

“These three events provide diverse examples of unilateral acts,” she said. “To me, they illustrate the incoherence and slippery nature of the concept and the complexity of attempting to unravel the inconsistencies in the various strands. They also demonstrate their richness and role in the functioning of international law.”

And then she pushed the envelope: “There is no dichotomy between unilateral and multilateral acts; rather, they merge into each other. Many acts are only unilateral in a narrow sense that disregards the desegregation of the modern nation state, although there can be no assumption that broadening the understanding of the decision-making process in this way is more democratic. What masquerades as collective action or inaction may be manipulated by a state with a particular interest or take on the issue, be dictated by a single strong actor through the threat or use of the veto, or by a single state taking the lead. Indeed, some analysts have defined the apparent collective action in the Gulf in 1990-91 not as ‘the new world order,’ but rather as the high water mark of a unipolar system.”

In the end, she said, “what perhaps most undermines the international normative order is the blurring of unilateral and multilateral action in ways that let the United Nations off the hook by allowing it to abdicate its obligations under the Charter. Increasingly, the role of UN agencies has been reduced to one of humanitarian assistance during or in the aftermath of crisis, sometimes criminally delayed (East Timor, Rwanda), sometimes confusing the appropriate recipients (focus upon the refugee camps in Zaire rather than on the Tutsi victims of genocide), sometimes compounding the disaster (safe havens in Bosnia).

“In the somewhat desperate words of Kofi Annan after Kosovo, the UN is still indispensable, but for what? Mopping up, rubber-stamping peace deals put together elsewhere, and providing some legitimacy. While not denying the value of these services for those who are left alive, it reduces the role of the United Nations to a sideshow.” ■

Assistant Professor Mark D. West responds to the paper by Harvard Law School's Mark Ramseyer on "Lessons from the Japanese Transition, 1870-1910." West heads the Law School's program in Japanese law.



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Conference goes who slipped into the very crowded Hutchins Hall room 236 during the two-day conference on "Corporate Governance Lessons from Transition Economy Reforms" found themselves listening to intense, learned debate on the impacts of change on many of the world's economies, as well as rigorous discussion of the methods of study used by speakers who were presenting and discussing their papers.

Tracking economies' change

Professor Michael A. Heller discusses the problems of Russian corporate governance during the conference on "Corporate Governance Lessons from Transition Economy Reforms," held at the Law School in September. Heller and Professor Merritt Fox, joint authors of the paper on Russian corporate structure presented at the conference, organized the program. Fox is seated to Heller's right.

The conference, sponsored by the Law School's Center for International and Comparative Law and the University of Michigan Business School's William Davidson Institute, took place at the same time in September as the symposium on "The Roles and Limits of Unilateralism in International Law, A United States-European Symposium." (See story on page 76). A number of participants, including Center for International and Comparative Law Director Merritt Fox, found themselves turning into perpetual motion machines as they zigzagged between events at both conferences.

Organized by Fox and fellow Law School Professor Michael A. Heller, the program on corporate governance lessons featured presentations and discussion by

some of the most renowned economists and economic scholars in the country.

In their own paper, "Lessons from Fiascos in Russian Corporate Governance," Fox and Heller said that many of Russia's current economic woes stem from privatizing formerly state-owned enterprises by handing them over to those who had managed them during the Soviet era.

Many factories that were maintained under the controlled economy could not survive in a free marketplace and should have been shut down immediately, Fox said. The transition has faced other problems, too, he added, like inexperience with open management practices.

Other topics and presenters included:

- "Russian Privatization and Corporate Governance: What Went Wrong?" Bernard Black, Stanford Law School; Reinier Kraakman, Harvard Law School; and Anna Tarassova, University of Maryland.
- "Lessons from the Japanese Transition, 1870-1910." Mark Ramseyer, Harvard Law School.
- "Organizational Law as Asset Partitioning," presented by Henry Hansmann, Yale Law School, and Kraakman.
- "A Rent-Protection Theory of Corporate Ownership and Control." Lucian Bebchuk, Harvard Law School.
- "Credible Commitments: Lessons from Transition Economies." Jonathan Macey, Cornell Law School.

Continued on page 80

■ "Why Ownership Matters: Entrepreneurship and Restructuring in Central Europe." Andrzej Rapaczynski, Columbia Law School.

■ "The Lessons of Securities Market Failure: Privatization, Minority Protection, and Investor Confidence." Ken Lehn, University of Pittsburgh; and Andrew Weiss, Boston University.

■ "The Common Law and Economic Growth: Hayek Might Be Right." Paul Mahoney, University of Virginia Law School.

■ "The Information Content of Stock Markets: Why Do Emerging Markets Have Synchronous Stock Price Movements?" Presented by Randall Morck, University of Alberta; and Bernard Yeung, New York University. ■

Taking hold of blurring borders

The line between domestic legal specialties and international law is growing murkier all the time, and law schools' approaches to legal education must embrace this change, according to the new director of the Law School's Center for International and Comparative Law. At the same time, said Professor Merritt B. Fox, American law schools must retain the core subjects and approach to legal education that have made them the envy of the world.

Fox, in his first address to the center's advisory board since becoming director last summer, said he'd like to see a legal education that "mainstreams transnational concerns" and creates a "synthesis of disciplines."

Fox and professors James Hathaway, Robert Howse, Deborah Malamud, and Mathias Reimann, LL.M. '83, outlined several aspects of the Law School's international programming for board members. Hathaway heads the Asylum and Refugee Law Program; Howse is an expert in international trade; Malamud has participated in the program of internships in South Africa; and Reimann is working on how to incorporate international law into the overall legal education curriculum.

The center was launched in fall 1998 to serve as an umbrella and coordinator for all international programs at the Law School. Its 19-member advisory board includes U.S.- and overseas-based experts in international law and practice.

The board's annual meeting at the Law School is held in conjunction with a major internationally-oriented event. In 1998, the board's meeting coincided with the visit of South African Supreme Court Justice Richard Goldstone, former chief prosecutor for the International Criminal Tribunals for Rwanda and the former Yugoslavia, who came to the Law School to deliver the William W. Bishop Lectures in International Law.

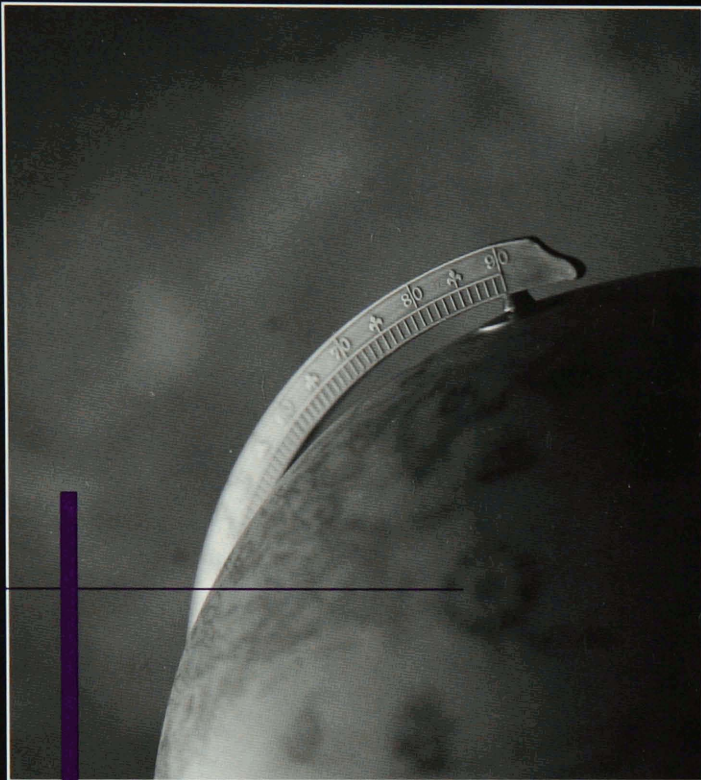
Last fall's meeting coincided with two multi-day programs: the joint symposium on "The Role and Limits of Unilateralism in International Law," sponsored by the center and the *European Journal of International Law*; and the conference on "Corporate Governance Lessons from Transition Economy Reforms," sponsored by the center and the University of Michigan Business School's William Davidson Institute. Fox and Professor Michael A. Heller, research directors at the institute, organized the latter conference. (Stories on the conferences begin on page 75.)



Eyes on the world —

"The borders are coming down. Clients now want international law firms," John Lonsberg, '79, of Bryan Cave in St. Louis, tells students gathered for a special program on careers in international law presented by members of the advisory board of the Center for International and Comparative Law. Other panelists, from left, include: Gare Smith, '83, director of global public affairs, Levi Strauss & Company; Professor Giorgio Bernini, LL.M. '54, S.J.D. '59, of Studio Bernini & Associati in Bologna, Italy; Professor Henry Schermers, Juridisch Studiocentrum, Leiden, and a visiting professor at the Law School 1968-69, 1994-95; Emilio Cardenas, M.C.L. '66, of HSBC Roberts, Buenos Aires; Jeffrey D. Kovar, '85, Office of Legal Adviser, U.S. Secretary of State; Lonsberg; and Yoichi Yamakawa, LL.M., '69, Koga & Partners, Tokyo. Board members presented the special program for students in September in conjunction with their annual meeting at the Law School. Some samples of their comments:

- International law offers great flexibility in a career, said Smith, formerly with the U.S. Department of State.
- Understand how other legal systems work, speak more than just your first language, and spend time living abroad, advised Schermers.
- International trade and finance offer great opportunities, said Cardenas.
- "If you want to know what we do, open up your daily newspaper," said Kovar, whose office provides legal advice for the U.S. Department of State.
- Be alert to opportunities, said Bernini. "One has to help one's own luck."



The following essay is adapted from Mathias Reimann, "Towards A European Civil Code: Why Continental Jurists Should Consult Their Transatlantic Colleagues," originally published in 73 *Tulane Law Review* 1337-1346 (1999). Reprinted with the permission of the *Tulane Law Review* Association, which holds the copyright. All rights reserved. For copies of the original article (with citations), contact the *Tulane Law Review* Business Office, John Giffen Weinmann Hall, Tulane University School of Law, 6329 Freret Street, New Orleans, Louisiana 70118-6231. Telephone: 504.865.5973. Fax: 504.862.8858.



— BY MATHIAS REIMANN, LL.M. '83

Why continental jurists should consult their transatlantic colleagues

The idea of codification has proved to be amazingly resilient. In its modern form, it was originally the child of the 18th century marriage between the law of reason and enlightened absolutism. It was adopted and refined by 19th century conceptual jurisprudence, liberalism, and republicanism. It survived even the 20th century with its mass democracy and totalitarian regimes, social and regulatory state, and consumer society. Thus, there is every reason to believe that it will be with us in the 21st century as well. This is particularly true in continental Europe. In most countries there, the traditional civil codes have remained in force, often for 100 years or more. In other lands, notably in eastern Europe after the fall of communism, they are being revived. In yet others, such as the Netherlands, they are being replaced by completely new texts.

Recently, the idea of codification has taken on a new dimension — that of a European civil code. Twice in the last decade, the European parliament has urged the European Union member states to undertake the codification of private law on a European level. In response, scholars have held conferences, launched preparatory research projects, and hotly debated the necessity, feasibility, prudence, and timeliness of such a project.

It is not my point here to take sides in this learned and often emotional debate. My agenda is much more modest. I want to urge my European fellow jurists working toward a common civil code to consult and cooperate with scholars from other parts of the world, notably from North America.

Such a suggestion may seem completely wrongheaded to many Europeans and probably even to many Americans. What can continental jurists possibly learn about codification, they will ask, from lawyers across the Atlantic? After all, codification is an eminently continental European tradition. In fact, it is one of the very hallmarks of the civil law, not of the common law. Technically, the civilians have all the expertise in the world, and

politically, the desirability of a common code is Europe's own business. It would seem that North American codifiers might seek European advice, but not vice versa.

Much of this is true, but I remain convinced that the continental jurists will need all the help they can get, even from their transatlantic colleagues. In planning and drafting a common civil code, continental jurists will run into a panoply of difficulties. With regard to many obstacles, such as a linguistic situation of Babylonian dimensions, national pride in indigenous codes, and clashing cultural predilections, North American lawyers will indeed have little to offer. Yet, with regard to at least two other problems, they will have something to contribute.

E Pluribus Unum

The first problematic issue is that codifying European private law requires forging a general set of concepts and rules from a considerable variety of individual subsets. Even if one believes that European private law is ultimately all rooted in the same tradition (for example, that of the *ius commune*) and thus cut from the same cloth, codification is a daunting challenge.

It is also a challenge regarding which American lawyers currently have greater expertise than the Europeans. Most European nation states succeeded in unifying their private law in the 19th century and could therefore rest on their laurels in the 20th century, at least until very recently. As a result, the present generation of European jurists views unification of law in a federal system as a new challenge. In contrast, their American colleagues have never completely unified their private law, but have continued to face its diversity to the present day. But particularly in our century, Americans have also made great efforts to reach greater uniformity. Thus,

for American lawyers, unification of private law has been an ongoing process during which they have gathered vast amounts of experience.

Over the last 100 years, the National Conference of Commissioners on Uniform State Laws has performed exactly the task described above: Condensing the various state laws into a uniform set of concepts and rules to be applied in all member states. In some instances, notably the Uniform Commercial Code (U.C.C.), these efforts have been splendidly successful; in others, success has been more limited or entirely wanting. Overall, unification of private law through uniform (model) legislation, often covering entire areas and thus approaching codification, has become a firmly established tradition and a routinely performed practice in 20th century American legal culture.

For about three-quarters of a century, the American Law Institute (ALI) has been creating *Restatements of Law*. Again, the task is similar to what would be required in Europe (creating a uniform text of law). Like the Uniform Laws, some of these *Restatements* have been highly effective in promoting national uniformity, others have been widely followed only as to individual sections, and still others have had relatively little influence. Be that as it may, the fact that a third generation of *Restatements* is currently underway proves that the work of the ALI also has become an integral part of the American legal system.

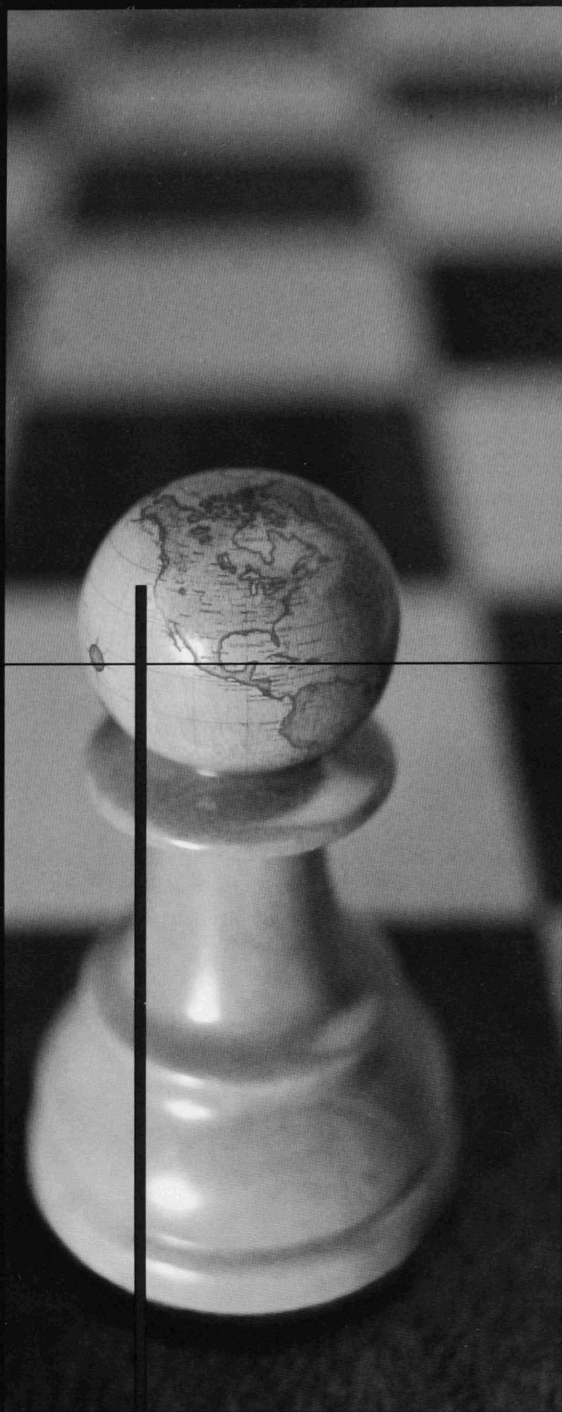
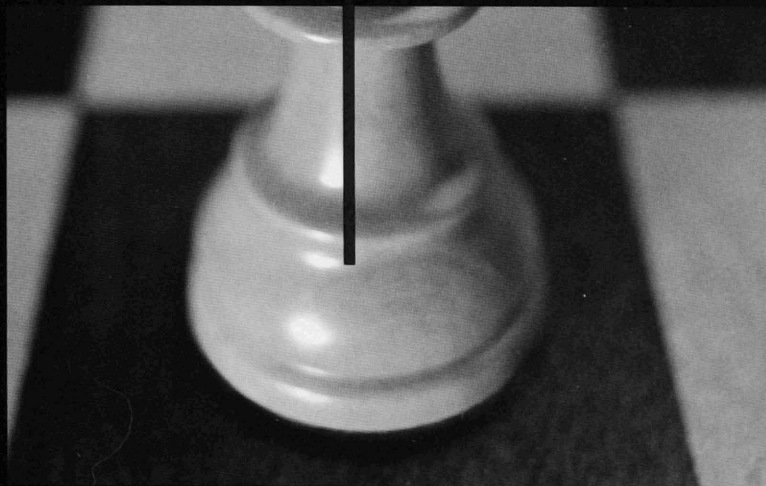
To be sure, there are significant, and obvious, differences between these American unification efforts and a European civil code. The uniform laws, including the U.C.C., are not true codes in the European sense because they do not aspire to create a comprehensive logical order. The restatements are not legislation to begin with, and thus bind nobody, except by persuasion. Neither uniform laws nor restatements are designed as closed systems, the gaps of

which can be filled by extrapolation from the overall framework. Nor are they considered the unquestioned centerpieces of the private law universe. Thus, simply copying such endeavors for Europe is out of the question. Nonetheless, European jurists could learn a lot from these American projects, with regard to both their successes and their failures.

To begin with, they can study how to organize and manage an institution performing such tasks; how to process information, how to run the drafting process, how to deal with lobbies, and how to persuade legislators to endorse the final product. It is true that the Europeans have some of their own models, such as the Hague Conference on Private International Law, UNIDROIT, and, more recently, the Lando Commission. While these models will be useful when the time comes to draft a European civil code, the American institutions offer great opportunities for additional guidance. This is particularly true because they are superior to the European models in size, complexity, output, and practical success, perhaps with the exception of the Hague Conference.

Perhaps even more importantly, the Europeans can learn much about the advantages and disadvantages of different roads to legal uniformity. Observing the American experience, they can compare the proffering of mere model laws (the adoption of which is then left to the member states) or non-binding restatements with the imposition of uniform (federal or European) law in statutory form by a central government. They can also see that despite a common text, legal developments in the individual jurisdictions will tend to diverge so that an institutional watchdog to curb these tendencies is indispensable. They can observe the perpetual need for revision and updating and thus come to realize that the maintenance of a uniform code is a constant, never-ending process. They

It is difficult, perhaps impossible, for an outsider to judge how successful Louisiana's codifiers have been in integrating common-law ideas with the civilian heritage of their state. But success or failure is not my point here. It is rather that their scholars have become sophisticated in codifying law in a civil and common-law environment and that such sophistication is a rare and precious commodity from which the Europeans should try to benefit. Codifiers from Louisiana and Quebec are uniquely qualified to assist their European colleagues in bridging the Channel.



can also learn something about how much private-law uniformity one really needs in a common market, and they can get a sense of how much one can hope to achieve despite the centrifugal forces inherent in any federation. Last, but not least, they can gauge the merits of gradual development and careful experimentation, which are the strengths of American federalism, and weigh them against the resulting inconsistency and incoherence that are its weaknesses.

Codification in Mixed Legal Systems

The second difficulty arises because a truly European civil code would have to include the common law. Of course, the continental jurists could simply limit their endeavor to their own civil law systems, but that would deliver a devastating blow to European legal integration. Leaving out the common law is thus not a viable option. Yet, if forging one system of rules out of more than a dozen continental subsystems is challenging, including the law of England and Ireland is an even more formidable task. It is a banality that the differences among the civilian jurisdictions are less significant than the differences between these civilian systems and the common law. In the world of law, the [English] Channel is still a divide that is not easily overcome.

This is particularly true in several respects pertaining to codification. First, there are important divergences between continental civil law and (English, Irish, and, to some extent, Scottish) common law in the fabric of private law itself. Even if one were to accept that the substantive discrepancies between the civil and the common law have been overrated and that the systems have been converging, there remain indisputable disparities regarding the respective conceptual tools and general structures. The civilian systems share much of the logical framework developed by

continental scholars since the late Middle Ages and can easily use it as a foundation when codifying private law. The common law system lawyers have never fully committed themselves to any comprehensive and systematic order — Hale, Blackstone, and the analytical jurists notwithstanding. A second difficulty lies in the divergent conceptions of legal rules. Civilians conceive of rules broadly and are comfortable with a high level of abstraction, which facilitates codification. Common lawyers construe them narrowly and always with a view to the concrete facts that generated them in the first place — an approach almost antithetical to the succinct and general rules of which the traditional civil codes have consisted. Finally, civil lawyers have practiced and cherished codification for centuries; they can thus embrace it on an all-European level as well. Common lawyers, especially in England, have traditionally been skeptical, if not outright hostile, to the whole idea; it is hard to believe that they will suddenly embrace it simply because it now concerns not only their own law, but also that of Europe in general. Significantly, the common lawyers have by and large not participated in the current debate about a European civil code.

With regard to all these differences and the concomitant difficulties, it seems that jurists from the other side of the Atlantic are not exactly a promising source of help. Private law in the United States is even more confused and chaotic than its English counterpart. American lawyers construe rules just as narrowly and consider them just as fact-dependent as do their English colleagues. It is true that jurists in the United States are less hostile to codes, but even they have tended to shy away from, or, as in the case of California, to disregard comprehensive private-law codification in the European style. They have mostly preferred a piecemeal approach, leaving huge gaps. For these reasons, the vast majority of Americans could indeed offer

little help to European codifiers in dealing with the frictions between the civilian and the common-law approaches.

Yet there is a small group of North American lawyers who could be extremely useful in exactly this regard. They are the civilian jurists from the mixed jurisdictions, i.e., from Louisiana and Quebec. Just like the advocates and the future draftsmen of a European code, they are civilians by training and at heart who, nonetheless, keep a constant eye on the common law. Operating in civilian enclaves surrounded by a common-law world, they are by necessity experts in working on the fault lines between the two great traditions. They also have a quality that lawyers from most other so-called mixed jurisdictions, such as Scotland, South Africa, and Israel, lack, but that is vital in the present context — they have ample experience with civil codes. Both Louisiana and Quebec have long and proud traditions of codification. These traditions are alive and well. Recently, Louisiana thoroughly revised its civil code, while Quebec enacted a completely new one. Through their traditions, both jurisdictions have produced a group of experts who do essentially what the Europeans are now planning to do: Codifying private law in a mixed jurisdiction in which the civil law predominates. The common law must receive its due, and the rules must be compatible with both traditions.

Illustrations of how civilians in these mixed systems have worked toward the goal of bringing civil and common law together are not hard to find; Louisiana can provide some examples. Codifiers in the Bayou State have always worked comparatively. Leading representatives are Athanassios Yiannopoulos, mainly in property law, Saul Litvinoff in obligations, and, more recently, Symeon Symeonides in conflict of law. In drafting and revising rules, they and others have constantly considered concepts, rules,

and approaches from various civil- and common-law jurisdictions. The Louisiana Law Institute, home of much of their work, has become a veritable powerhouse of comparative legislative drafting.

As a result of these comparative efforts, Louisiana's civil law today shows many signs of imports from common-law jurisdictions. Some of these imports have affected the law of obligations. There we find the common-law concept of detrimental reliance, common-law notions on the determination of price and the transfer of risk in sales law that accords with other states, and, outside the code, common-law ideas about the conditional sale of movables. Other Anglo-American ideas have influenced the law of property. The new concept of "Building Restrictions" is curiously reminiscent of covenants running with the land at common law; the "transfer of rights to a thing" incorporates the Anglo-American quitclaim deed in thin disguise, and, again outside the civil code, the trust — one of the very hallmarks of the common law — was incorporated into Louisiana law. Particularly with regard to trusts, the common-law import was modified and adjusted to fit into the surrounding civil-law environment.

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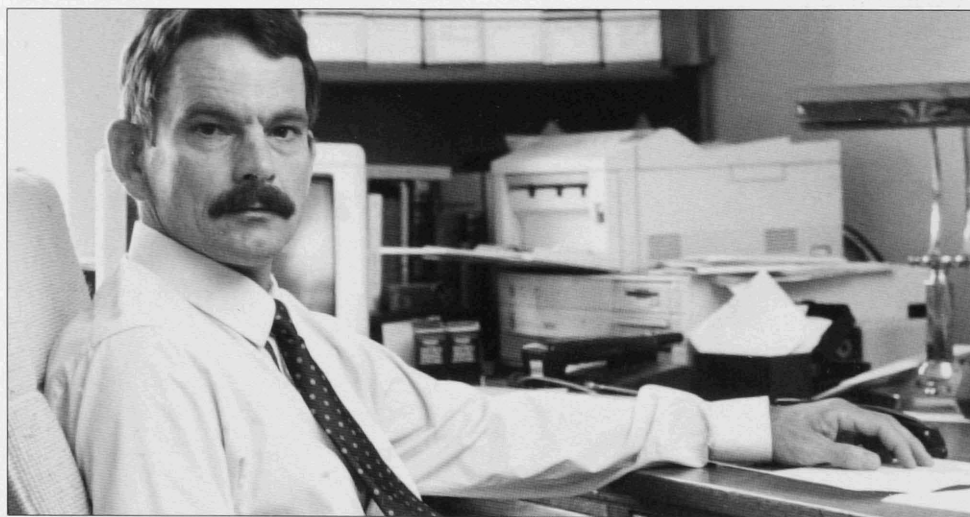
Looking Beyond European Shores

If the European jurists are well advised to draw on the experience of their transatlantic colleagues with codification in federal systems and mixed jurisdictions, how can they do so? Most importantly, the continental civilians should stop talking just among themselves. Europeans like to chastise American lawyers for their parochialism, and often for good reason. In the debate about a common civil code, however, the Europeans have been the parochial ones. It is time they look beyond their shores and consult outsiders as well.


Currently, at the discussion stage, they should actively seek the views and advice of lawyers from the United States, especially from Louisiana, and also from Quebec. They should invite them to their conferences and workshops and ask them how they have handled the difficulties of codification. How did they know whether the time was right to undertake a codification project? How did they prepare for it, and on what sources did they primarily draw? To what extent was the work of legal experts affected by political considerations and

alliances? Where did their efforts succeed, and where did they fail? What were the reasons for their successes and failures? If the Europeans proceed to the drafting stage, they should appoint leading members of the National Conference of Commissions on Uniform Laws and of the American Law Institute, and particularly codifiers from Louisiana and Quebec, as members of the respective committees in an advisory function. It is likely that those asked would be glad to serve.

Involving especially the jurists from Louisiana and Quebec means enlisting lawyers with first-rate expertise in comparative law in action. These scholars have gone beyond just thinking about codifying rules in mixed jurisdictions — they have actually done it. Their products are enacted in the legislatures and are being enforced in the courts. An added bonus is that in several cases, these scholars were born, raised, and educated in Europe. They are thoroughly familiar with its languages, traditions, cultural diversity, and with the European legal mind. What better outside help could European codifiers want?



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Lifting the weight of the wait

— BY DONALD N. DUQUETTE, '75

The following excerpt is from *Guidelines for Public Policy and State Legislation Governing Permanence for Children*, published in June 1999 as part of Adoption 2002: The President's Initiative on Adoption and Foster Care. Clinical Professor Donald N. Duquette, '75, and Mark Hardin, of the National Resource Center on Legal and Court Issues, are principal authors of the *Guidelines*, which were fashioned by a 74-member work group of administrators, lawyers, judges, advocates, and front-line workers in child welfare services. The purpose of the *Guidelines* is to help states review their own laws and develop statutes and policies that reflect the best practices in child welfare today. Duquette spent the academic year 1998-99 in Washington, D.C., working on the *Guidelines* as a legal consultant to the Children's Bureau. A complete version of the *Guidelines* is available via the Children's Bureau of the U.S. Department of Health and Human Services' Administration for Children and Families. Write The National Clearinghouse on Child Abuse and Neglect Information, P.O. Box 1182, Washington, D.C. 20013-1182, or telephone 1.800.FYI.3366. For an electronic version — www.acf.dhhs.gov/programs/cb.

America's foster children spend far too long waiting — deprived of the permanent and stable homes necessary for their healthy development. On December 14, 1996, President Clinton kicked off Adoption 2002: The President's Initiative on Adoption and Foster Care with this challenge:

"I am committed to giving the children waiting in our nation's foster care system what every child in America deserves — loving parents and a healthy, stable home. The goal for every child in our nation's public welfare system is permanence in a safe and stable home, whether it be returning home, adoption, legal guardianship, or another permanent placement. While the great majority of children in foster care will return home, for about one in five, returning home is not an option, and they will need another home, one that is caring and safe. These children wait far too long — typically over three years, but for many children much longer — to be placed in permanent homes. Each year state child welfare agencies secure homes for less than one-third of the children whose goal is adoption or an alternate permanent plan. I know we can do better."

The federal framework setting direction and parameters for the operation of state and local child welfare agencies and courts was established 20 years ago with passage of the Adoption Assistance and Child Welfare Act of 1980. This was the first federal statute to discourage excessive reliance on foster care placement and promote greater use of services to assist and rehabilitate families, preventing out of home placements. It introduced the concept of permanency planning and

incorporated specified time frames for decision making for children and families. These were significant changes in the legislative history of child welfare services, but as new and more complex social problems emerged and foster care caseloads increased, additional programs and alternative approaches were required. Consequently, other legislative initiatives to support or promote permanency were introduced. These include the Family Preservation and Family Support Services Program, established in 1993 and amended in 1997, the Multiethnic Placement Act of 1994, with its 1996 Interethnic Placement Provisions, and the Adoption and Safe Families Act, enacted in November of 1997.

The legislation that established the Family Preservation and Family Support Services Program focused primarily on the front end of the child welfare system by providing additional funding for preventive services and crisis services for children and families at risk. Implementation required active involvement of a broad community of stakeholders to focus on needs and services for children and families. The law also created the Court Improvement Program, and provided resources to state courts for the first time, to ensure that courts were responding to the needs of children in foster care. The Court Improvement Program required state courts to conduct systematic needs assessments and plan necessary reforms. In effect, this legislation highlighted family services and prevention as a national priority, and provided opportunities for state agencies and courts to plan child welfare programs.

In response to major concerns about the extended length of stay and poor outcomes for minority children and the prevalence of racial preference in placement, Congress enacted the Multiethnic Placement Act (MEPA) and the Interethnic Placement Provisions (IEP). Enacted in 1994, MEPA outlawed discriminatory practices, and, in 1996, the IEP clarified the original legislation and created sanctions for states and agencies that fail to comply with the Act. MEPA forbids the delay or denial of a foster or adoptive placement solely on the basis of the race, color, or national origin of the prospective foster parent, adoptive parent, or the child involved. It also compels states to make diligent efforts to recruit and retain foster and adoptive families that reflect the racial and ethnic diversity of the children for whom homes are needed. With the IEP, Congress

subsequently clarified MEPA and repealed that section of the law containing "permissible consideration" language that could have been used to obfuscate the law's intent. The amendment also dictates a penalty structure and corrective action planning for any state or private agency that violates the amended section of the act. These two statutes are noteworthy for child welfare because they required changes in laws and policy and also changes in child welfare practice to facilitate more timely placement of children into foster and adoptive homes.

However, it is the recently authorized Adoption and Safe Families Act of 1997 (ASFA) that most comprehensively addresses critical permanency issues in child welfare and the law. The law was a bipartisan action to ensure that children's safety would be the paramount concern of all child welfare decision-making and to promote the adoption of children who cannot return safely to their own homes. The law has two overarching goals: the first is to move children who are stranded in the child welfare system with no place to go; the second is to change the experience of children who are entering the system today. Five key principles guide the implementation of the law:

- Safety is the paramount concern that must guide all child welfare services.
- Foster care is temporary.
- Permanency planning efforts should begin as soon as a child enters care.
- The child welfare system must focus on results and accountability.
- Innovative approaches are needed to achieve the goals of safety, permanency, and wellbeing.

With these principles and provisions in place, enactment of ASFA has provided state and federal officials with a unique opportunity to reform the child welfare system to make the system more responsive to the multiple, and often complex, needs of children and families. The law reaffirms the need to forge linkages between the child welfare system and other systems of the courts.



Through the eyes of the child

Half a million American children are in foster care, remaining in a psychological and physical limbo far longer than they should. These are real children with their own stories and personal dilemmas. It is easy to reduce their anguish to mere statistics and legal technicalities and to lose focus on the complexity of their lives. Yet, it is the individual boy or girl who constitutes the heart and soul of this document and who motivates our work on it.

As Kate Welty wrote in *Achieving Permanence for Every Child: A Guide for Limiting the Use of Long-Term Foster Care as a Permanent Plan* (1997), "The foster care system, intended to provide temporary care, has become home for far too many neglected and abused children."

Approximately 14,000 foster children per year age out of foster care without ever returning to their birth families or being placed permanently in homes of their own. Here are some examples of children whose lives will be improved if permanency can be achieved for each of them.

■ In 1996, Brendan R., age 4, was found dirty, hungry, and alone. His mother, addicted to cocaine and alcohol, was homeless and unemployed. Brendan was taken from her and spent 13 months in foster care. Motivated by the desire to regain custody of her son and assisted by a persistent and hopeful social work team, Brendan's mother overcame her addictions, fulfilled the requirements of court orders and her parent/agency agreement, and found fulltime employment. In slightly over one year, Brendan returned to his mother's custody, having been in the same foster home the entire time. Brendan represents a foster care success, but unfortunately, Brendan's foster care experience is not typical. Of the nearly half million children in foster care, approximately 65 percent will return to their birth families, but, unlike Brendan, the average length of stay in foster care is three years and the average foster child experiences 3.2 different foster placements. These *Guidelines* try to reflect a child's sense of time and the need to act and decide quickly. The *Guidelines* propose a focused and disciplined intervention in a family monitored by regular court reviews so that more children and parents can benefit from foster care as did Brendan and his mother.

■ Louis was also four when placed in foster care due to extreme abuse and neglect. Unfortunately, his is a history of trauma and loss. After 10 years in a series of foster homes, all he wants is a family that will laugh at his jokes, take him for Chinese food (his favorite), and keep him for life, a family that will be there long after he turns 18. Louis said recently, "God, if you're listening, I really want a family." The state agency and court recently gave up hope of finding an adoptive family for Louis and changed his case plan to long-term foster care. Louis' dream of a forever family may never be realized.

■ Tiffany and Victoria S. represent two of the approximately 20,000 foster children adopted each year. It took far too long for them to be adopted. Tiffany was 5 when placed in foster care and 12 when she was adopted; Victoria was 3 when placed in foster care and 8 when she was adopted. Their adoptive mother said, "Tiffany told us that she'd be sitting on the couch in one of her foster homes, watching TV, and the social worker would come get her. She never knew when she came to a place whether it would be home for a month or a year." Tiffany says, "It was hard to be in other homes and then think, 'Is this going to be it, or am I going to have to move again?' I'm very relieved to be adopted, and it's just good to know that I am not going to have to worry about one day this social worker being here and all of a sudden says, 'Well, Tiffany, I'm sorry but you have to leave.'"

■ Miranda was two months old when child protective services discovered her living with a convicted drug dealer, who allegedly received the child in settlement of a drug debt. Miranda's mother had relinquished four other children to relatives' custody. Both Miranda and her 3-year-old brother were born cocaine exposed. Miranda's lawyers, working closely with the public agency, moved aggressively to find a legally secure and permanent placement. A maternal aunt and uncle already had physical custody of Miranda's 3-year-old brother and were willing to take Miranda permanently, except they could not afford expenses for two children. The child's lawyers found that the aunt and uncle were legally entitled to adoption subsidies for both children, and, with the aunt and uncle's permission, took the necessary legal steps to achieve termination of the mother's parental rights, finalize the adoption, and secure adoption subsidies for both children. Thanks to aggressive legal





representation of the child, as recommended in these *Guidelines*, Miranda spent three weeks in foster care before being placed with her aunt and uncle. Her adoption was final within six months of the case coming to the attention of the court.

■ Casey was starved and neglected during the first three months of his life. He was placed with a foster-adopt family, in a concurrent planning process. Reunification with the birth parents and long-term permanency planning for Casey occurred simultaneously. The foster parents loved and cared for him while trying to help Casey reunite with his birth parents by modeling good parenting for them. After a year of intense services, Casey's parents decided that they could not parent him and voluntarily relinquished custody to the foster parents, who then adopted him. Casey is now 11 and his experience demonstrates several recommendations in these *Guidelines*:

- Remove the emotional uncertainty from the child as much as possible.
- Give birth parents a fair and reasonable opportunity to become adequate parents.
- Provide long-term permanence for the child.
- And settle disputes voluntarily and as non-adversarially as possible.

■ Tiffany, now 14, is Casey's adoptive sister. She was placed with her adopting family on a concurrent planning, foster-adoptive basis when she was 11. Now adopted, Tiffany stays in touch with her grandmother and cousins in her extended birth family. Tiffany is an example of a child benefiting from a fairly new legal option for children recommended by these *Guidelines* — adoption with contact. Because of the voluntary arrangements between her birth and adoptive families, Tiffany is experiencing something previously unknown in her life — commitment and continuity. "I have my own room and have been going to the same school for three years — the longest I've ever gone to one school," she says. "I have friends that I've known for years. All those things are nice . . . but what's important is that every day when I go home, I know I will be hugged and loved and supported in whatever I do. I know they'll never leave me."

■ Brothers Abe and Josh lived with their maternal grandparents since they were babies. Their parents were very young and the relationship never really worked out. Their grandmother says, "We asked the father if he would be willing to relinquish parental rights. We told him that

he had a right to his children, that we weren't taking them away from him, but that we would raise them for him. He agreed right away, but for my daughter it took a little longer. In our family, my daughter is 'their mother' and they call me 'Mom.'" Josh, 13, says, "Things are all right with my mother, but I don't really hang around with her. I just know her as my sister really." Many communities and cultural groups and individuals are not comfortable with termination of parental rights and formal adoption when it happens within the extended family. Some say, "Why should I adopt him; he is already my grandson (or nephew or brother)?" Permanent guardianship, a new legal status set out in these *Guidelines*, provides legal security and stability while maintaining selected legal ties, including inheritance rights, to the birth parents. For some children, this status of permanent guardianship will provide just the appropriate level of security and connectedness.

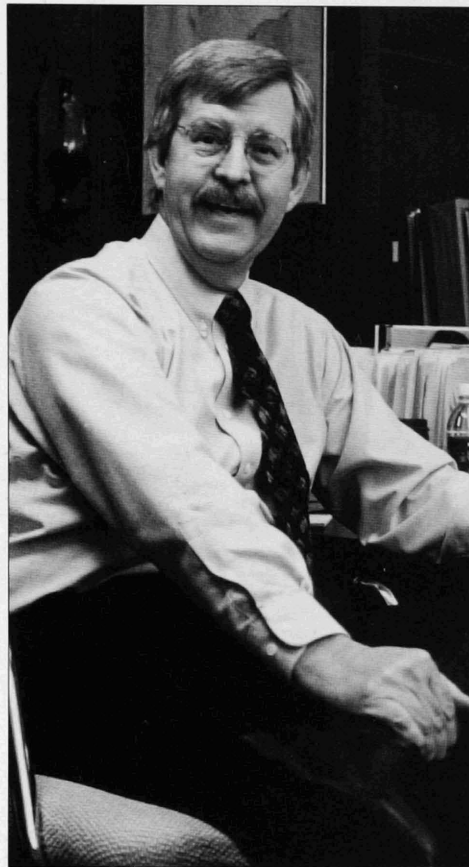
The challenge of diversity

When one looks in the face of an American foster child, one is most likely to see a child of color. While they comprise only 35 percent of the general population, children of color make up more than 64 percent of the children in foster care, according to the most recent data available. When a family is reported for suspected child abuse and neglect, minority children, particularly African American children, are more likely than white children to be placed in foster care rather than receive in-home services — even when the children share the same problems and characteristics. African American and Latino children tend to remain in temporary foster care twice as long as white children, and, once legally free for adoption, wait for adoption longer than white children do. Similarly, despite the Indian Child Welfare Act, Native American children also are significantly overrepresented in the foster care population.

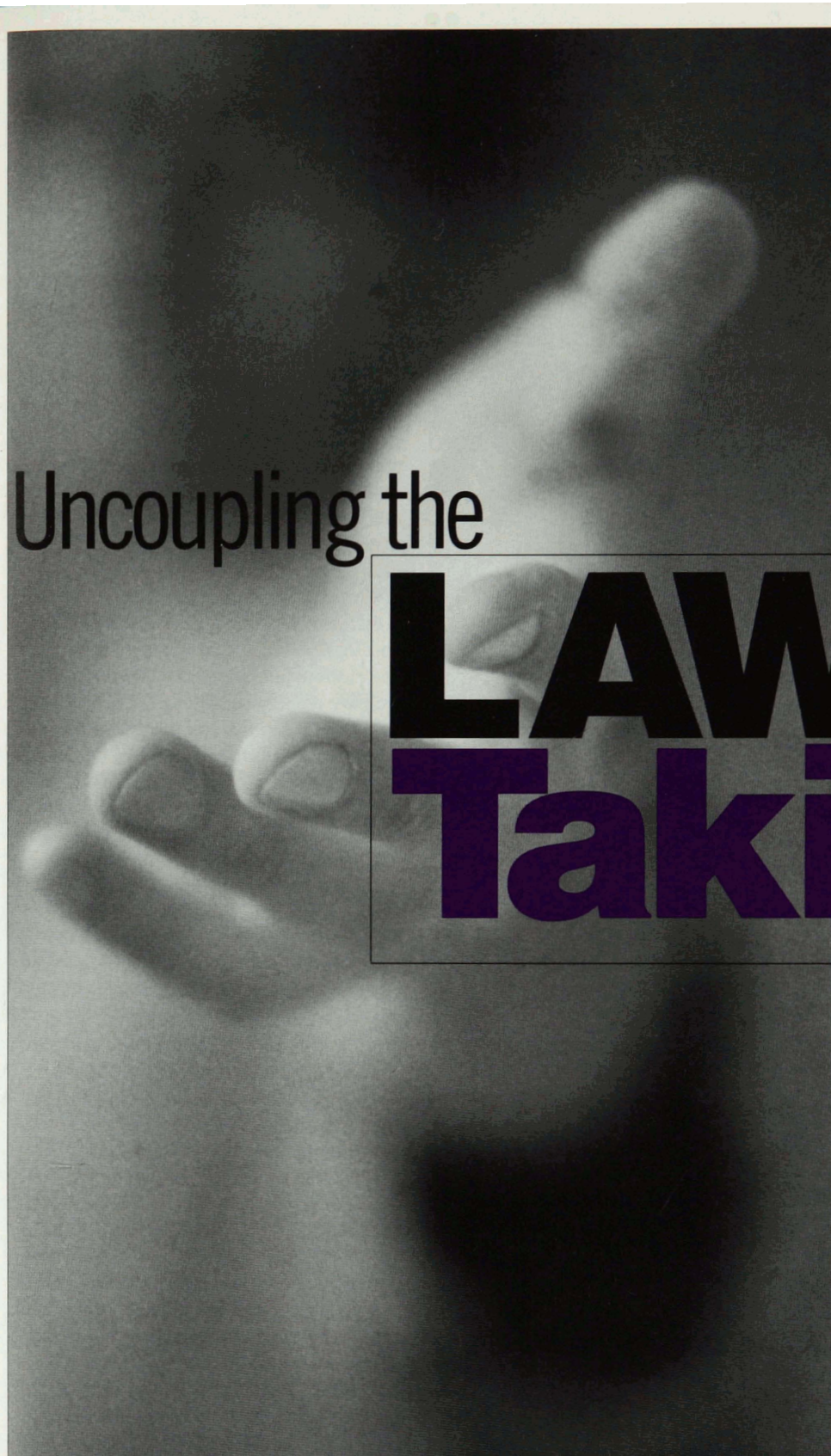
Although a disproportionate number of minority children enter and remain in

foster care, recent reports published by the Children's Bureau clearly indicate that the actual incidence of child abuse or neglect does not differ among different racial or ethnic groups. Therefore, the overrepresentation of children of color who have been placed in foster care because of suspected child abuse and neglect is a particularly troubling phenomenon. Much like race, ethnicity, and culture, socio-economic status also affects entry into foster care. Close to 60 percent of foster children come from families receiving government support. More than half, at least 52 percent, of the children in foster care come from families that are title IV-E eligible by being at the lowest end of the family income scale. When viewed cumulatively, statistics such as these suggest that a complex set of service delivery dynamics is at work, which profoundly affects the experiences of minorities and low-income families in the public child welfare system. But even as we develop increased levels of cultural competency among child welfare and court staff and risk assessment processes to account for cultural differences, as well as increase our understanding of the complex problems related to poverty and family stress, we cannot adequately explain the overrepresentation of poor and minority children in care. Consequently, the challenge posed by diversity in the public child welfare arena remains a critical issue yet to be addressed.

No single group or element of our community has the ability or the responsibility to improve the foster care system on its own. This fact presents a unique and difficult challenge to the country's leadership. All the nation's leaders collectively share equal levels of responsibility for America's children, whether their sphere of operation is in local communities or in business, the professions, science, education, social services or any other type of work. The challenges facing America's child welfare system are many and the keys to successful reform must come from many quarters. Child welfare reform must be broad-based and interdisciplinary. The potential for achieving meaningful child welfare reform lies in getting all components of our communities to work together to implement specific improvements.



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Uncoupling the

LAW OF Takings

The following article is based on "Deterrence and Distribution in the Law of Takings," 112 *Harvard Law Review* 997-1025 (March 1999), © 1999 by the *Harvard Law Review* Association, and appears here by permission. A complete version, with citations, is available from the authors or the editor of *Law Quadrangle Notes*.

BY MICHAEL A. HELLER AND JAMES E. KRIER

The law of takings couples together matters that should be treated independently. The conventional view, shared by courts and commentators alike, has been that any takings case can be resolved in one of two ways: either there is a taking and compensation is due, or there is no taking and no compensation is due. These results are fine as long as one holding or the other serves the two central concerns of the Takings Clause — efficiency and justice. But a problem arises when the two purposes behind the law of takings come into conflict, as they readily might. It happens that in some takings cases there are good reasons to require *payment* by the government, but not *compensation* to the aggrieved property owners. In other cases, the opposite is true — compensation to individuals makes sense, but payment by the responsible government agency does not. What is needed, then, is a set of four possible resolutions, instead of the conventional

The purposes of the Takings Clause

Begin with the aims of the Takings Clause. In a vast and otherwise contentious literature, whether judicial opinions or scholarly books and articles, there appears to be virtual consensus that the purposes of just compensation are essentially two. Frank Michelman calls them “utility” and “fairness” in an article that remains, more than 30 years after its publication, the most significant piece of academic commentary on our subject (“Property, Utility, and Fairness: Comments on the Ethical Foundations of ‘Just Compensation’ Law,” 80 *Harvard Law Review* 1165 [1967]). He could just as well have called them “efficiency” and “justice,” and, in fact, he later does. Efficiency argues for allocating resources among alternative uses in ways that maximize value; justice argues for distributing the costs and benefits resulting from particular allocations in ways that satisfy some equitable principle of rightness.

Efficiency, in short, is about the size of the pie, and justice is about who should get what piece. We prefer to think about these two concerns in terms of deterrence and distribution, because doing so lets us clarify some interrelationships that might otherwise be overlooked.

A. Deterrence — general and specific

Richard Posner identifies one deterrence rationale for the government’s obligation to pay compensation. “The simplest economic explanation for the requirement of just compensation,” he says, “is that it prevents the government from overusing the taking power.” If the government were free to take resources without paying for them, it would not feel incentives, created by the price system, to use those resources efficiently. A likely consequence would be the movement of some resources from higher to lower valued uses. The aim to avoid this tendency we shall call *general* deterrence.

Specific deterrence has a related but nonetheless different purpose: the obligation to pay compensation can constrain governmental inclinations to exploit politically vulnerable groups and individuals. James Kent, in his *Commentaries* (1827; reprinted by Da Capo Press, 1971), captured the essence of both kinds of deterrence when he referred long ago to the compensation requirement as a “check” on government power.

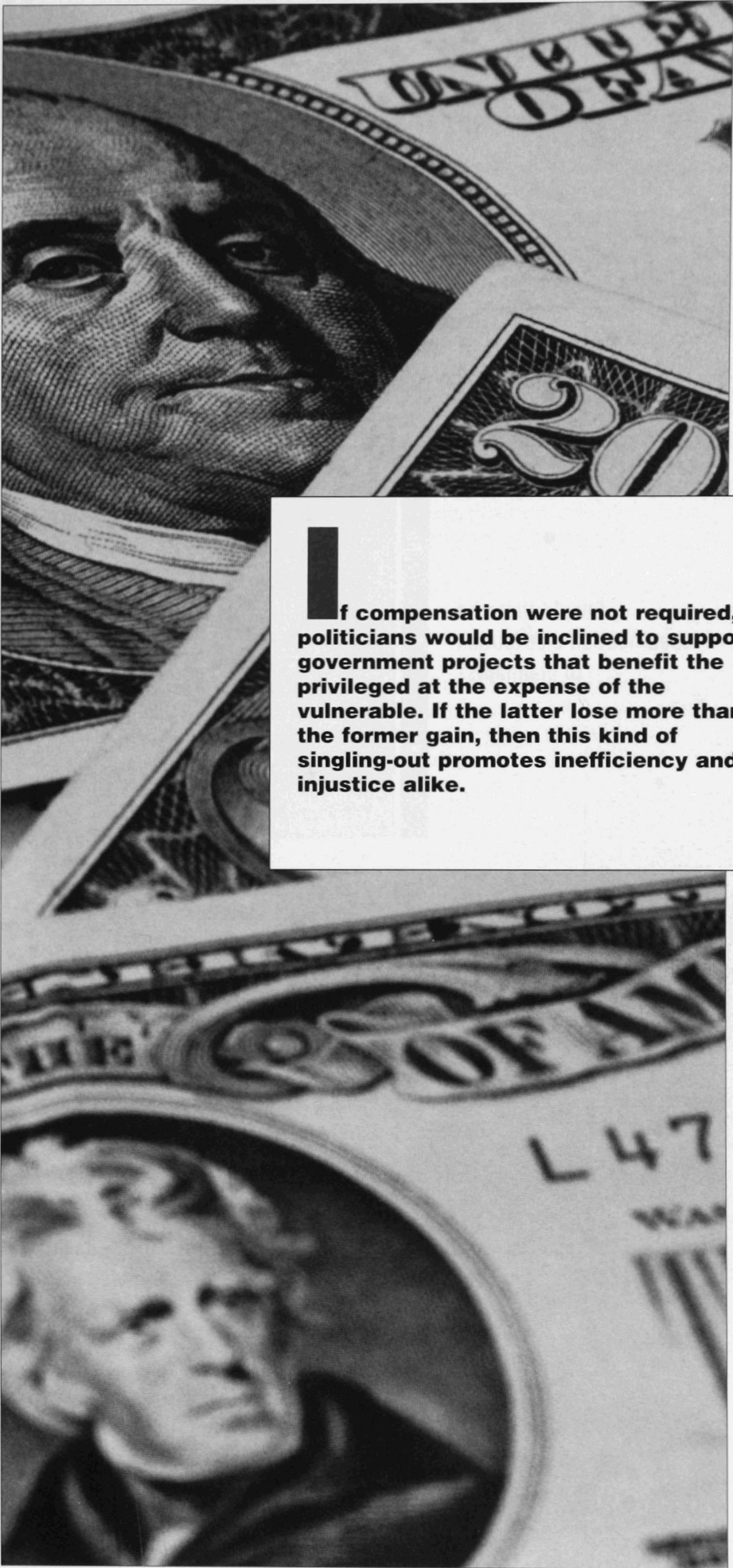
B. Distribution — specific and general

The distributional function of just compensation is the one most readily acknowledged by the courts. A familiar statement of the idea appears in Justice Black’s opinion in *Armstrong v. United States* (364 U.S. 40 [1960]): “The Fifth Amendment’s guarantee that private property shall not be taken for a public use without just compensation was designed to bar government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.” As with deterrence, it proves useful to think about distribution in terms of the specific and the general. What we call *specific* distribution is simply the method of compensation that courts use in takings cases now: they determine and distribute the amounts due in terms of each aggrieved claimant *as an individual*.

General distribution, on the other hand, is our own invention, different in method, and to some degree in purpose, from conventional (specific) compensation. As we have already suggested, there are occasions when the Takings Clause, rightly considered, calls for payment of deterrence damages by the government, but not for specific distribution of compensation to claimants as individuals. Especially when a government regulation unduly burdens many parties, high transaction costs may make it infeasible to compensate each affected person through a specific distribution of individually tailored payments. At the same time, fairness might not require a specific distribution either. But it hardly follows that the responsible government agency should not have to pay, because considerations of efficiency might call for payment as a deterrent, a spur to appropriate incentives. When the government is required to pay deterrence damages but not to make a specific distribution, we call the payment a *general distribution*. For example, the responsible government bureau could be required to pay deterrence damages into a special fund, or even into general revenues. (For our approach to work in practice, fiscal boundaries must not be too porous, or else damage payments could flow back to the responsible government bureau and undermine the intended deterrent effect.)

two; the two new resolutions become available when we uncouple efficiency considerations from justice considerations, or, put another way, when we uncouple “taking” on the one hand from “compensation” on the other. The resulting set of four possible resolutions helps smooth out some of the many wrinkles for which the law of takings is renowned.

And new wrinkles keep turning up. In *Phillips v. Washington Legal Foundation*, 118 S. Ct. 1925 (1998), the Supreme Court considered the meaning of the phrase “private property” in the Constitution’s injunction “[N]or shall private property be taken for public use, without just compensation.” The majority and dissenting opinions in *Phillips* took a range of interpretive approaches to the issue, each seemingly sensible but none fully faithful to the animating concerns of the just compensation requirement. The debate among the justices ends up shedding little light on the ultimate takings question in the case, which remains to be resolved on remand. As the latest in a string of unsatisfying takings decisions, *Phillips* proves less interesting for the answers it provides than for the questions it provokes, at least in our minds. Despite all their differences, the Court’s nine members implicitly agreed on one thing — the possibility of a taking without compensation. This seemingly novel notion has moved us to think anew about the conventional law of takings, and to consider the virtues of an expanded approach.



C. Interrelationships of deterrence and distribution

Deterrence and distribution are not always independent of one another. Take the case of general deterrence. If compensation of any kind is denied when justice would insist upon it, the result would not only be unfair but might be inefficient as well. First of all, to relieve the government of any obligation to pay is to forgo an opportunity to test whether the benefits of a government program are truly worth its costs, an important matter when the benefit-cost call is a close one. Second, a program that would be efficient if compensation were paid to burdened parties might be inefficient if compensation is withheld, as a consequence of the demoralization suffered by the uncompensated losers. Demoralization has to figure into the calculation of final costs and benefits, and thus into the question whether a government program enhances or diminishes net welfare. Specific deterrence implicates similar efficiency concerns. If compensation were not required, politicians would be inclined to support government projects that benefit the privileged at the expense of the vulnerable. If the latter lose more than the former gain, then this kind of singling-out promotes inefficiency and injustice alike.

Interrelationships like these have an important bearing on the choice between specific and general distributions, a point

If compensation were not required, politicians would be inclined to support government projects that benefit the privileged at the expense of the vulnerable. If the latter lose more than the former gain, then this kind of singling-out promotes inefficiency and injustice alike.

FIGURE 1: Uncoupling Deterrence and Distribution, Taking and Compensation

		Should there be payment by the government?	
		Yes	No
Should there be specification distribution to claimants?	No	Box 1 Ordinary Regulation	Box 2 Taking/No Compensation
	Yes	Box 3 No Taking/ Compensation	Box 4 Ordinary Taking

best explained by reference to Figure 1 (above), which uncouples matters that are conventionally bound together. Conventional wisdom allows for a pairing of no taking/no compensation, the ordinary regulation that appears in Box 1, and for a pairing of taking/compensation, the ordinary taking that appears in Box 4. The familiar view overlooks an additional set of two, the pairing of taking/no compensation that appears in Box 2 and the pairing of no taking/compensation that appears in Box 3.

In the Box 1 and Box 4 cases, efficiency and justice concerns can be harmonized by one or the other ordinary route. Box 1 refers to cases where neither efficiency nor justice calls for payment by the government or to any individual; Box 4 has in mind cases where efficiency and justice both call for the opposite.

Our new entries, Box 2 and Box 3, deal with purposes in conflict. When we speak in Box 2 of a taking without compensation, we mean a taking with no specific distribution, as opposed to a general one. A general distribution that forces the government to pay (into some special fund,

for example) can advance general or specific deterrence, even through the amount paid is not specifically distributed to claimants. Beyond that, it is plausible to suppose that general distributions can be formulated in such a way as to ease demoralization (an efficiency concern) and promote a sense of fairness or justice, matters we save for further discussion in connection with the *Phillips* case.

The idea behind Box 3 is more straightforward: there are occasions when justice calls for specific distributions to aggrieved parties, even though there is no taking (say because there is no reason to suppose that deterrence is a matter of concern). Notice that we have a source for such payments; among other possibilities, they could be drawn from the amounts paid in by a government agency as general distributions in Box 2 cases.

Our claim emerges from the foregoing. An expanded conception of the takings picture — a move from two alternative resolutions to four — can help resolve conflicts left unattended by current law.

The *Phillips* case

Now we want to go back to *Phillips v. Washington Legal Foundation*, the case that provoked this essay. For generations, lawyers have pondered the question, “What is private property?” The same issue is obviously latent in every takings dispute, yet it is seldom aired because the “propertyness” of the asset at stake in the litigation is usually uncontested. In *Phillips* it was not.

Briefly, the story behind *Phillips* is this. Before 1980, the only checking accounts that federally insured banks could provide paid no interest. Lawyers used the accounts anyway for pooling and disbursing certain funds entrusted to them by or for clients, namely any funds too nominal in amount, or held for too short a term, to earn interest net of expenses in a savings account. (Savings accounts were usually used for large amounts held on behalf of individual clients.) Beginning in 1980, the rules were changed to permit federally insured interest-bearing checking accounts for some kinds of deposits; lawyer trust funds could earn interest if charitable organizations received the interest. States moved quickly to capitalize on the new rules by enacting Interest on Lawyer Trust Account (IOLTA) programs. The programs provide that any client funds otherwise incapable of earning interest (that is,

nominal and short-term amounts) are to be pooled together in IOLTA accounts. The interest thereby earned by the aggregated funds is then distributed to nonprofit organizations that render legal services to the poor. Every state and the District of Columbia has such a program, and in more than half of them attorney participation is mandatory.

The plaintiffs in *Phillips* challenged Texas' mandatory IOLTA program on several constitutional grounds, but the only question that reached the Court, and the only one that shall concern us here, was whether the interest on IOLTA accounts is private property for purposes of the Takings Clause. The district court rejected the plaintiffs' claims on summary judgment. Because the funds deposited into IOLTA accounts are only those incapable of earning interest net of costs, the judge reasoned that clients owning the principal lost nothing; indeed, they never really had any property in the interest in the first place. Given that there was no property, there could be no taking. The same logic must have figured in the thinking of the hundreds of state judges who had previously considered the constitutionality of IOLTA programs in the course of adopting them, and it supported decisions by federal courts of appeals in two earlier cases.

A panel of the Court of Appeals for the Fifth Circuit nevertheless disagreed, choosing to apply a different but no less rigorous logic. The principal amounts deposited into IOLTA accounts are obviously the property of the various clients who handed over the money. Under Texas law, the court observed, the general rule is that "interest follows principal"; therefore, the interest must be the clients' property as well. The Supreme Court, in an opinion by Chief Justice Rehnquist, affirmed, noting that it expressed no view as to whether the Texas IOLTA program worked a taking, or, if it did, whether any compensation was due. Those were questions to be decided on remand. Four justices dissented.

Phillips in our model

Phillips is a member of a class of cases concerned with government regulatory programs that impose trivial burdens *per capita* but, because a large number of people are affected, may involve substantial sums in the aggregate. Our general reaction to such cases runs like this: the small burden per individual could support a conclusion that no specific distribution is required on fairness grounds or to ease any "demoralization" among risk-averse property owners. Moreover, given the large number of people affected, concerns about high settlement costs suggest that if any distribution at all is to be considered, it should be a general distribution. If deterrence concerns arise because of the large aggregate sums at stake, they could be addressed by making the responsible government bureau pay, as a general deterrent; the obligation to pay may also be a welcome specific deterrent in instances giving rise to suspicions that politically vulnerable groups are being exploited.

But *Phillips* calls for more particular analysis, in part because it involves a situation where the government program itself creates value by pooling property fragments, and in part because the value created arguably comes at no expense to property owners, meaning, among other things, that there is no case for general deterrence.

Pooling programs are common, but their analysis has been neglected, especially in connection with takings. In this regard, notice that both specific and general distribution seem to be impossible in IOLTA cases, because there is nothing to distribute. The claimants suffered no loss by the conventional measure, and using an alternative measure — one that made the government pay back the interest earned by the pooled accounts — would amount to wiping out IOLTA programs altogether. *Phillips*, then, is a pooling case, but of an unusual sort, and unusual cases might call for measures that rely on some mechanism other than payments of money by and to the parties in the lawsuit.

In deciding whether IOLTA interest was property, the majority in *Phillips* focused on the gross interest corresponding to a single client's principal. In contrast, the dissenters argued that if any interest-related number were relevant, it would be the net interest available for distribution in the unpooled case, by definition a negative amount.

Neither approach addresses the novel takings issues that pooling raises; the most salient numbers are those more or less ignored in *Phillips*.

One of these is the net interest that a marginal client could deny to a mandatory IOLTA program if the client were allowed an "opt-out" option, say by directing that her principal not go into her lawyer's IOLTA account. Justice Breyer probably had this in mind when he said that the "most that Texas law here could have taken from the client is . . . the client's right to keep the client's principal sterile, a right to prevent the principal from being put to productive use by others." Notice, though, that Justice Breyer's observation is not quite correct. A marginal client's choice to opt out of an IOLTA would not render the client's principal "sterile"; the money would remain productive, but the resulting interest would be enjoyed by depository banks. Essentially, IOLTA programs redistribute wealth from organizations that provide banking services for depositors to organizations that provide legal services for the poor.

The other salient number ignored by the majority in *Phillips* is the cumulative net interest that IOLTA programs earn from pooling, a sum by definition not capable of specific distribution (because such a distribution would make IOLTA pointless). While the majority deferred discussing it, Justices Souter and Breyer happily noted that conventional just compensation doctrine would assign this new value to the government because it was generated by the government program at issue. Our approach opens up new possibilities for distributing the cumulative gains from pooling in ways that would better serve the purposes of the Takings Clause. For example, certain forms of general distribution could give clients just what mandatory IOLTA programs take away: the right to determine the uses to which the earnings from principal are put, or what we call "client-voice." Whereas conventional takings law focuses on unpooled gross and net interest, an approach based on deterrence and distribution rightly shifts attention to opt-out and client-voice alternatives.



Deterrence and distribution in *Phillips*

A better approach to *Phillips* is to identify the deterrence and distribution issues at stake and to uncouple them in a way that makes matters more tractable. In this respect, however, the case is far from transparent to us. The path taken by all the justices resulted in, among other things, a conventional factual record that is inadequate for our unconventional purposes. On the deterrence side, we need to know if IOLTA programs are likely to be so inefficient or oppressive as to require some sort of check on the government; with respect to distribution, we need more nuanced information about the plaintiffs' fairness claims and options for redressing them. In the absence of a more developed record, we can only offer some initial speculations.

Pooling programs can raise questions about inefficiency and general deterrence, but the particular kind of pooling involved in IOLTA programs seems untroubling. All IOLTA programs generate value, yet even the mandatory ones inflict no actual monetary harm on any individual. The degree of harm is clear, and clearly trivial, *per capita* and in the aggregate, making general deterrence a nonissue. So, too, for specific deterrence. Clients who deposit money in lawyers' trust fund accounts do not strike us as politically vulnerable. Though IOLTA programs may not be the least costly way to fund legal services for the poor, they are not egregiously inefficient and do not seem likely to have costly collateral consequences; for example, clients are unlikely to respond by underusing the legal system.

Fairness concerns are more troubling in *Phillips*, partly because conventional just compensation doctrine responds so poorly to the expressive and liberty interests at stake in the case. In IOLTA programs, monetary losses are not the crux. Denial of client-voice is. In this light, the majority's position in the case seems more than a little odd. The Chief Justice's opinion separated interest from the principal to which it owed. The interest was a real thing that might quite literally have been taken (the takings issue, recall, was

remanded); IOLTA's redistribution of the productive capacity of the principal, on the other hand, was regarded as "at most" a regulation of the "use of the property," the plain implication being that it would pass constitutional muster. Yet the interest so captivating to the majority is worth absolutely nothing, zero, to a client depositing principal. At the same time, the denial of aggrieved IOLTA conscripts' ability to control the way in which their principal is used seems to have concerned the Court not at all. In short, the majority focused on a trivial injury, but ignored a substantial insult.

If considerations of justice were thought to require it, a court (assuming it has the authority) could instruct the responsible government agency to make a general distribution that gives clients a voice in the use of IOLTA funds (say, by voting whether to support legal services for the richer instead of the poorer), or could allow clients or their lawyers to opt out of (or not opt into) the program. But IOLTA programs do not seem to be a more oppressive means of raising funds than a straight tax on clients or other consumers of legal services would be, so such a move strikes us as unnecessary. We see the arguments for calling *Phillips a Box 2* case, but we conclude, tentatively, that it ends up fitting best in Box 1. Mandatory IOLTA programs should probably be viewed as ordinary regulations.

Demolishing and rebuilding the Takings Clause

Presumably, more than a few of our readers will accuse us of demolishing the Takings Clause and building something else in its place. We (and many accessories before the fact) are guilty of the second charge, but not the first. The Supreme Court started the process of demolition 75 years ago. Before then, takings law was pretty simple and solid, if not particularly satisfying. When the government took title to property or actually occupied it, then just compensation was due; otherwise it was not. Matters started to get complicated in 1922, when the Court decided *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 191. Suddenly, even the burdens worked by regulatory measures might amount to takings, unless the measures were intended to control nuisances.

Developments since have only added to the muddle, but we shall refrain from a blow-by-blow description because even an abbreviated account would bore aficionados, and only a lengthy one would satisfy anybody else. Let an inventory suffice: Supreme Court decisions over the last three-quarters of a century have obscured and bifurcated the nuisance exception to regulatory takings; have waffled on the question of conceptual severance; have distinguished inconsistently between permanent and temporary takings; have suggested that what is not just compensation actually is just compensation, if only regulators are crafty; have made little of large losses, unless they are entire, and much of small ones, even when they are zero; have become confused about what "private property" is for purposes of the Takings Clause; have, in short, turned the words of the Takings Clause into a cryptogram that only the justices in a given case are able to decipher (and seldom do all of them agree).

So demolition has been the Court's doing, and the mess is hardly surprising: changing times, values, politics, and personalities result in new and different views among the members of the Court, yet our constitutional tradition requires that the justices always moor their opinions to particular words. The tie has held, but only because the words have been stretched beyond recognition. To make sense of the Takings Clause, it is time to look behind its text to its purposes, and go anew from there. One such purpose is obviously fairness, but another is necessarily efficiency, thanks to *Pennsylvania Coal*. Whatever the Court's decision in that case left obscure, it made clear that regulations are often a substitute for eminent domain. There is abundant agreement that the power of eminent domain is justified and constrained for reasons that have to do, in part, with efficient use of society's resources. It would be strange to suppose that the same is not true of regulatory substitutes.

A problem with this observation is that it calls up the ghost of substantive due

The move prompted Justice Kennedy to caution that the Court must be "careful not to lose sight of the importance of identifying the property allegedly taken, lest all governmental action be subjected to examination under the constitutional prohibition against taking without just compensation, with the attendant potential for money damages."

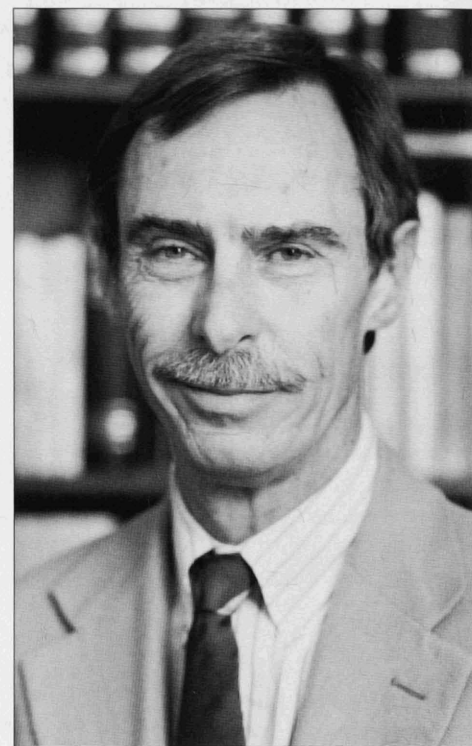
process. If the courts are to review regulatory measures with efficiency in mind and the means for deterrence in hand, then arguably this is little different from empowering them to second-guess the legislature generally. But the Court does that now, at least in the context of takings. In its first exaction case, *Nollan v. California Coastal Commission*, 483 U.S. 825, 841 (1987), the majority established a practice of reviewing land-use regulations with unusually close attention to the connection between ends and means. Then, in its subsequent decision in *Dolan v. City of Tigard*, 512 U.S. 374, 391 (1994), the Court insisted upon rough proportionality between the thing exacted and the development permitted in exchange. Dissenting in the latter case, Justice Stevens remarked on the majority's "application of what is essentially the doctrine of substantive due process."

Seemingly, the Fifth Amendment's limitation to measures taking "private property" would constrain the judiciary's freedom to strike down regulatory programs, but that constraint has just recently been loosened considerably. In its decision in *Eastern Enterprises v. Apfel*, 118 S. Ct. 2131 (1998), the Court considered the constitutionality of legislation holding certain employers retroactively liable for employee retirement benefits. The plurality invalidated the measure as a taking, even though it concerned no standard property interest. The move prompted Justice Kennedy to caution that the Court must be "careful not to lose sight of the importance of identifying the property allegedly taken, lest all governmental action be subjected to examination under the constitutional prohibition against taking without just compensation, with the attendant potential for money damages."

The question of appropriate limitations on the scope of judicial review is not our problem. Whatever the boundaries of the Takings Clause, we think there is much to be gained by analyzing takings in terms of the clause's underlying purposes, and by understanding that efficiency and justice are best served by uncoupling matters and methods of deterrence from matters and methods of distribution. Thus might we develop a body of law as supple as the challenges it confronts.



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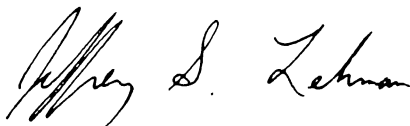
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Carol Mock Kanarek
Jay Arthur Kennedy
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Donica Thomas Varner

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HONOR ROLL

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Total Dollars\$389,798
Participation46%
Reunion Gifts
& Pledges.....\$322,739

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Class of 1954 45th Reunion

Donors96
Total Dollars\$419,591
Participation51%
Reunion Gifts
& Pledges\$342,226

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Total Dollars\$492,258
Participation.....41%
Reunion Gifts
& Pledges\$465,874

\$100,000 OR MORE

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Frank D. Jacobs
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E. Champion Kersten
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Donors104
Total Dollars\$146,790
Participation.....35%
Reunion Gifts
& Pledges\$63,380

\$5,000 - \$9,999

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James D. Zirin

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Richard F. Gerber
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James M. Wilsman

*Deceased

REUNION CAMPAIGNS



HONOR ROLL

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Donors138
Total Dollars\$262,594
Participation.....39%
Reunion Gifts
& Pledges\$234,807

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Lori Klein Adamek
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Arnold M. Nemirow

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Richard F. Carlile
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Edward M. Welch
James G. Wells
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David Woodbury

Class of 1974 25th Reunion

Donors137
Total Dollars\$256,765
Participation.....38%
Reunion Gifts
& Pledges\$233,805

\$50,000 - \$99,999
Langley R. Shook

\$25,000 - \$49,999
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Alberto A. Munoz, II

\$10,000 - \$24,999
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HONOR ROLL

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Total Dollars\$222,376
Participation.....30%
Reunion Gifts
& Pledges.....\$209,306

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\$25,000 - \$49,999
Carla E. Craig &
Stuart D. Freedman

\$10,000 - \$24,999
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R. Gregory Morgan
Donald R. Parshall, Jr.
John Mark Quitmeyer

\$5,000 - \$9,999
Bruce Daniel Celebrezze
Timothy L. Dickinson
Kevin Sean Hendrick
Robert Brown Knauss
Marguerite Munson Lentz
John V. Lonsberg
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Jeffrey Eric Susskind

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John Sebastian Vento
Seth J. Weinberger
Jeffrey I. Weiss
Peter J. Wiedenbeck
Robert Alan Wynbrandt

Class of 1984 15th Reunion

Donors95
Total Dollars\$59,484
Participation.....24%
Reunion Gifts &
Pledges\$61,284

\$5,000 - \$9,999
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Susan Mary McGee
Daniel Michael Sandberg
Mary E. Snapp
Stephen G. Tomlinson

\$2,500 - \$4,999
Susan Mary McGee
Kathryn Montgomery
Moran
Steven Clark Poling
Paul B. Savoldelli
Stephen M. Schiller

\$1,000 - \$2,499
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Thomas James Frederick
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John B. Houck
Richard P. Matsch
Dean E. Richardson
John S. Slavens
Walter H. Weiner

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James Leonard Conley
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James P. Dickerson
Robert B. Dixon
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James Donovan
Stanley M. Fisher
Ellis B. Freatman
James L. Gault
George R. Glass
Carleton H. Griffin
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Masanori Kushi
Herbert M. Leiman
Dwaine V. Lighthammer
Edward G. Madden, Jr.
William T. Means
Herbert L. Meschke
R. Wyatt Mick
Donald J. Miller
George D. Miller, Jr.
Duane Morris
Yukio Naito
James J. Nopper
Gene E. Overbeck
Thomas A. Roach
Clifford L. Sadler
Herbert I. Sherman
Carrington Shields-
Oppenheim
Gordon H. Smith, Jr.
Philip S. Smith
John F. Spindler
Arthur L. Stashower
Richard C. Stavoe
Kenneth G. Stevens
Edgar A. Strause
John C. Thomas
James O. Tingle
Richard M. Treckelo
Franklin S. Wallace
Charles W. Wexler
William L. Wise

ANNUAL HONOR ROLL OF DONORS



*Deceased

HONOR ROLL

ANNUAL HONOR ROLL OF DONORS

1955

Donors63
Dollars\$47,892
Participation37%

PAUL G. KAUPER CABINET
 Robert B. Fiske, Jr.
 David R. Macdonald

WILLIAM W. BISHOP, JR. CIRCLE
 Robert E. Baker
 John R. Worthington

PARTNERS IN LEADERSHIP
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 Lawrence I. Brown
 Charles H. Cory, II
 Ivan M. Forbes
 Carl R. Gaylord
 Robert S. Nickoloff
 Robert G. Schuur

PARTICIPATING DONORS
 Michael J. Baughman
 John W. Bauknecht
 James W. Beatty
 Norman I. Brock
 Ira A. Brown, Jr.
 James Bulkley
 William M. Caviston
 Leland B. Cross, Jr.
 John P. Daley
 Ronald V. DeBona
 Robert I. Donnellan
 James W. Dorr
 John G. Fletcher
 George S. Flint
 Robert S. Frey
 Jack E. Gallon
 Donald W. Gruettner
 Sanford B. Hertz
 Harvey A. Howard
 Bernard A. Kannen
 Raymond E. Knappe
 Alan Z. Lefkowitz
 Robert H. Levan
 Mark R. Lidschin
 Fred Mallender, II
 Leah R. Marks
 Joseph F. Maycock, Jr.
 William Morris Moldoff
 William G. Myers
 Roger P. Noorthoek
 Martin S. Packard
 John J. Peters
 O. K. Petersen
 John R. Peterson
 James M. Potter
 William L. Randall
 Richard S. Ratcliff
 James P. Ricker
 Anthony F. Ringold
 Sidney B. Schneider
 Harvey M. Silets
 Robert C. Strodel
 Theodore W. Swift
 Malin VanAntwerp
 Edward L. Vandenberg
 William L. Wilks
 Booker T. Williams
 Kenneth S. H. Wong

1956

Donors70
Dollars\$170,365
Participation39%

THOMAS M. COOLEY CABINET
 William R. Jentes

LAYLIN K. JAMES CABINET
 William C. Cassebaum

PARTNERS IN LEADERSHIP
 Jack G. Armstrong
 William J. Cowlin
 Arne Hovdesven
 Richard A. Jones
 Robert S. McCormick
 John H. McDermott
 Charles B. Renfrew

PARTICIPATING DONORS
 William H. Alexander
 Dennis J. Barron
 John J. Brittain
 Harland M. Britz
 Herbert R. Brown
 Robert A. Brown, Jr.
 Eugene D. Buckley
 John C. Cary
 William Y. Chalfant
 William F. Crockett
 Richard R. Dailey
 Walter R. Denison
 Glenn S. Dennis
 Richard K. Elliott
 Daniel P. Ernst
 Neil Flanagan
 Donald Robert Ford
 Norman E. Gaar
 Peter J. Gartland
 Eugene H. Gilmartin
 Daniel S. Guy
 Paul R. Haerle
 Alfred L. Haffner
 Robert L. Halbrook
 Irving L. Halpern
 Edward A. Hansen
 H. Van Den Berg Hatch
 John D. Hegarty
 Frank C. Henry
 Arthur E. Higgs
 James S. Hilboldt
 John B. Huck
 Nye King
 John F. Kruger
 John B. Kuhr
 Thomas A. Lazaroff
 Sherwin J. Malkin
 H. Dale Meredith
 Oscar J. Miller
 Richard W. Morrison
 James T. Neef
 Roger H. Oetting
 Nathan K. Parker, Jr.
 Cynthia V. Peterson
 Harold H. Plassman
 Julius B. Poppinga
 Edward A. Quinnell
 Robert E. Robinson
 Robert Rosenman
 Donald W. Shaffer
 Edward L. Shank
 Lawrence W. Sperling
 David W. Swanson
 Edwin S. Taylor

Robert S. Thompson
 James A. Timmer
 Dale W. VanWinkle
 John Millard Webb
 Clarence F. Wittenstrom, Jr.
 Frederic L. Wyckoff, Jr.
 Murray Yolles
 Norman A. Zilber

1957

Donors75
Dollars\$663,548
Participation31%

THOMAS M. COOLEY CABINET
 Jack D. Sweet

EDSON R. SUNDERLAND CABINET
 Robert D. Guy

PARTNERS IN LEADERSHIP
 Ralph H. Dwan
 George J. Caspar, III
 Sidney C. Kleinman
 Robert A. Link
 Cyril Moscow
 Frank F. Reed
 James F. Sams

PARTICIPATING DONORS
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 John A. Beach
 James D. B. Beckett
 George T. Bennett
 Jacob Bernstein
 Hugo E. Braun, Jr.
 James C. Bray
 David F. Breck
 Thomas P. Browne, Jr.
 John K. Cannon
 David F. Cargo
 Kenneth B. Cutler
 Martin M. Doctoroff
 S. Jonathan Emerson
 Ralph H. Erickson
 Philip A. Fleming
 Frederick W. Fraley, III
 Stephen G. Fuerth
 Thomas L. Gadola
 Bernard M. Gelber
 Whitmore Gray
 Francis R. Grebe
 Allan W. Grossman
 Edward C. Hanpeter
 James R. Hanson
 Mary Anderson Hartung
 Thomas J. Hughes
 Livingstone M. Johnson
 Charles L. Johnston
 Charles E. Keller
 Michael F. Kelly
 James J. Kilsdonk
 Ross A. Kipka
 George Kircos
 Arthur F. Lamey
 Carl F. LaRue
 Arthur T. Lippert
 George W. T. Loo
 George F. Lynch
 Frederick Mahan
 David H. Marlin
 Robert Andrew Martin
 William H. McCready
 Frank R. Morris, Jr.

David L. Nelson
 Howard N. Nemerovski
 John H. Oltman
 Charles B. Park, III
 Jules M. Perlberg
 James M. Porter
 Thomas F. Quinn, Jr.
 John P. Schaefer
 F. McCauley Small, Jr.
 Byron L. Sparber
 James M. Tobin
 Leonard Toboroff
 William C. Todia
 John C. Towner
 Gerald Tuchow
 John N. Washburn
 Robert B. Webster
 A. Duncan Whitaker
 Walter F. Wolf, Jr.
 Paul B. Wolfe
 L. Bennett Young
 PLANNED GIFTS
 James A. Leavengood

1958

Donors87
Dollars\$1,983,252
Participation37%

THOMAS M. COOLEY CABINET
 Terrence A. Elkes
 Robert P. Luciano
 Robert E. Nederlander

PAUL G. KAUPER CABINET
 John C. Baity
 Henry D. Baldwin

LAYLIN K. JAMES CABINET
 Ronald J. Cayo
 Thomas A. Troyer

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PARTNERS IN LEADERSHIP
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 Donald E. James
 M. Robert Kestenbaum
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 Charles H. Kivett
 Barry L. Kroll
 John F. Lewis
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 R. William Merner
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 Stephen Moyer
 William K. Muir, Jr.
 David L. Nixon
 Raymond Olson, Jr.
 Philip R. Placier
 Jerome F. Prewoznik
 Donald L. Reisig
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 Richard S. Rosenthal
 Elmer C. Rudy
 Michael J. Ryan
 Michael Scott
 Gerald M. Smith
 Robert J. Stewart
 William W. Stodghill
 Robert S. Sugarman
 Thomas G. Thornbury
 George B. Trubow
 Gerald D. Tupper
 Theodore M. Utchen
 Regis Valentine
 Eugene G. Wanger
 Rainer R. Weigel
 Stephen A. Weinstein
 Robert D. Welchli
 Thomas R. Winquist
 William J. Wise
 William P. Wooden
 Wilbert L. Ziegler

1960

Donors84
Dollars\$46,149
Participation36%

PAUL G. KAUPER CABINET
 Morton M. Zedd

LAYLIN K. JAMES CABINET
 Joseph D. Whiteman

WILLIAM W. BISHOP, JR. CIRCLE
 George P. Kersten
 Arbie R. Thalacker

PARTNERS IN LEADERSHIP
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 Stephen Marcus
 George E. Snyder
 Erik J. Stapper
 Bruce M. Stiglitz
 E. Lisk Wyckoff, Jr.



HONOR ROLL

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Robert L. Bombaugh
Stanley Davis Brown
Anthony C. Buesser
John P. Bure
Robert A. Burns
Barbara A. Burt
Ralph D. Butler
Ward Chapman
Philip A. Clancey
Spencer L. Depew
Dirk DeVries
Charles N. Dewey, Jr.
Seymour N. Dubrinsky
Richard A. Elbrecht
Robert J. Emmons
Alan I. Epstein
Roger W. Findley
Vance A. Fisher
Glenn O. Fuller
John Fuller
Robert J. Garrett
Mervyn S. Gerson
Lawrence H. Gingold
Donald L. Goldman
Clifford H. Hart
Douglas J. Hill
Dudley Hughes
Joseph J. Jerkins
I. Samuel Kaminsky
Benny L. Kass
Donlad J. Keune
Mark V. Klosterman
Kenneth Laing
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Richard H. May
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Russell A. McNair, Jr.
Franklin H. Moore, Jr.
Gordon Myse
Robert J. Paley
Frank Pollack
David Q. Reed
George J. Reindel, III
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John I. Riffer
Carl Roberts
Thomas G. Sawyer
Robert Segar
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David R. Shaub
James C. Shearon
Susan R. Shimer
Dean J. Shipman
Joel N. Simon
Herman S. Siqueland
Leonard W. Smith
John A. Stichter
William K. Strong
Warren Sundstrand
Leonard W. Treash, Jr.
Steven Uzelac
Guy Vander Jagt
William Vogel
C. Robert Wartell

Byron H. Weis
David B. Weisman
Clay R. Williams

1961

Donors88
Dollars\$116,510
Participation37%

L. HART WRIGHT CABINET
Richard W. Odgers
Stanley R. Zax

PAUL G. KAUPER CABINET
Irvine O. Hockaday, Jr.
Gregor N. Neff
Henry B. Pearsall

WILLIAM W. BISHOP, JR. CIRCLE
Harold S. Barron
Arthur R. Gaudi

PARTNERS IN LEADERSHIP
James N. Adler
Richard O. Ballentine
Calvin A. Campbell, Jr.
Richard L. Kay
George A. Mathewson
J. Bruce McCubbrey
John L. Peschel
William Y. Webb
Lloyd E. Williams, Jr.

PARTICIPATING DONORS
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Walter M. Andrew, Jr.
Michael E. Barber
Bruce A. Barnhart
C. Robert Beltz
Stanley Berger
Peter A. Bernard
James B. Blanchard
Robert S. Bolton
James H. Booker
John H. Bradbury
Robert L. Brooks
Phillip S. Brown
Jerome E. Burns
J. Philip Burt
George D. Cameron, III
John E. Cochrane
Frederic K. Conover, II
James R. Cripe
Bruce J. Daniels
Frederick S. Dean
Raymond H. Drymalski
Warren E. Eagle
Robert Eleveld
John J. Esposito, Sr.
John L. Etter
William S. Farr, Jr.
John A. Fiske
Stanford E. Gass
William J. Giovan
Howard I. Green
Jerome B. Greenbaum
Stuart S. Gunckel
Paul A. Hanke
Bernard Heller
H. Russel Holland
Thomas Hooker
Frederick R. Hubbell

Thomas E. Hunter
Michael Klynn
William Krupman
Richard M. Leslie
Peter F. Levin
Daniel E. Lewis, Jr.
Francis C. Marsano
Richard E. McEachen
Robert L. McLaughlin
Michael B. McLearn
Ian C. McLeod
Cecil R. Mellin
W. Stephen Meloy
G. Gregory Michael
Elliott C. Miller
Jerome D. Neifach
Robert F. Ochs
Robert A. Pfaff
Robert J. Reid
Russell H. Riggs
Gerald F. Rosenblatt
Albert J. Russell
Timothy F. Scanlon
Laurence M. Scoville, Jr.
Robert A. Shupack
Donald A. Slichter
Lawrence R. Springer
Norton L. Steuben
John J. Stroh
Paul S. Teranes
Robert E. Thorne
James M. Trapp
Stanley A. Williams
Walter W. Winget, II

1962

Donors88
Dollars\$60,451
Participation36%

PAUL G. KAUPER CABINET
Joel M. Boyden

LAYLIN K. JAMES CABINET
Roger B. Harris
Garol A. Partoyan

WILLIAM W. BISHOP, JR. CIRCLE
Carl M. Riseman

PARTNERS IN LEADERSHIP
J. Edward Barth
Peter D. Byrnes
Larry M. Carter
Morton L. Efron
Michael R. Flyer
Karl L. Gotting
Amalya L. Kearse
William R. Nicholas
John R. Nichols
Frank G. Reeder
William B. Rees
Thomas P. Scholler
Oliver E. Seikel
Yoshio Suzuki
Robert B. Wessling

PARTICIPATING DONORS
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Randolf H. Aires
William S. Bach
John R. Bagley
Livingston Baker
John A. Benning
Robert M. Bordeau
Richard Samuel Borland

William M. Brukoff
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Robert A. Butler
James F. Champion
Eben G. Crawford
George Deshensky
Jon F. DeWitt
Benton S. Duffett, Jr.
Frederic L. Dupre
Brian C. Elmer
James M. Flaggert
Robert B. Frederick
Frederick D. Freed
Alan G. Friedman
Melvyn H. Fruit
Thomas W. Godfrey
Kenneth W. Graham
W. Philip Gray
Robert M. Grover
Miyatomi Harushima
Thomas D. Heekin
William F. Herlihy
Morrison L. Heth
John E. Hodgson
Philip S. Hollman
Albert P. Horrigan
C. Vernon Howard, Jr.
Richard A. Hyde
Norman A. Jacobs
Lynne B. Johnson
B. Todd Jones
Paul W. Jones
Bruce Kalom
Alan F. Kane
Philip E. Kaplan
Robert A. Karbel
Vernon D. Korterling
Joseph P. Koucky
David K. Kroll
J. Richard Marshall
Malcolm E. Martin
Larry W. McCormack
Thomas J. McKey
Robert L. Metzger
Charles H. Miel
Paul F. Mordy
O. Joseph Murray
Francis J. Newton
John M. Niehus
Russell K. Osgood, Jr.
Robert W. Paisley
John B. Pendleton
Richard A. Prince
Donald R. Prinz
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Jerome M. Salle
L. William Schmidt, Jr.
Stuart D. Shanor
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Donald J. Spero
Reed F. Steele
Donald P. Stone
John Phillip Surratt
Robert W. Swain, Jr.
Roy Y. Takeyama
David P. Taylor
Thomas W. Taylor
John J. Timmer
Kent J. Vana
William D. VanTilburg
David A. Watts
David N. Weinman
Alvin J. Wilson

John A. Wise
Donald J. Witter
Ralph L. Wright
Robert J. Yock
Raymond A. Yost

1963

Donors113
Dollars\$127,067
Participation34%

PAUL G. KAUPER CABINET
Kenneth S. Handmaker
W. Fred Hunting, Jr.

LAYLIN K. JAMES CABINET
Robert C. Canfield
Gerald L. Gherlein
Herbert M. Kohn
Robert G. Lane
Alan I. Rothenberg

WILLIAM W. BISHOP, JR. CIRCLE
Alexander E. Bennett
Murray J. Feiwell
John William Galanis
J. Thomas McCarthy
Thomas W. VanDyke

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Justino H. Cacanindin
James A. Corrodi
Robert Z. Feldstein
Stuart F. Feldstein
Lloyd C. Fell
Warren F. Grienenberger
Robert L. Harmon
Stuart Ho
Ira J. Jaffe
D. Michael Kratchman
Hugh M. Morrison
David J. Rosso
Lawrence K. Snider
Richard K. Snyder
A. Paul Victor
Jackman S. Vodrey
Kathryn D. Wriston
Scott F. Zimmerman

PARTICIPATING DONORS
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Richard Snyder Brennan
Arthur V. N. Brooks
Dan R. Bruggeman
Lawrence T. Buchmiller
Orville L. Coady
Theodore R. Cohn
Simon F. Coleman
D. Sidney Condit
Peter H. DeHaas
William W. DeWitt
Edward M. Dolson
Charles F. Dugan, II
Bruce W. Eaken, Jr.
Henry Earle, III
Anthony E. Efrehoff
Sarah Efrehoff
S. Stuart Eilers
John R. Ernst
Allen D. Evans
John M. Fischer
Howard M. Frankenberger
Charles R. Frederickson, III
Alfred E. Gade

*Deceased

ANNUAL HONOR ROLL OF DONORS



HONOR ROLL

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 J. Walker Henry
 Marvin J. Hirn
 Howard H. Hush, Jr.
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 David J. Kayner
 Bruce T. Kloppman
 John A. Krsul, Jr.
 Jules Lang
 Bruce Leavitt
 Luke T. C. Lee
 Joseph W. Little
 Arthur F. Lubke, Jr.
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 John R. Lutz
 Ralph E. Mahowald
 J. Patrick Martin
 Joe Billy McDade
 Gerald E. McNally
 J. Michael Meade
 Anthony R. Michel
 Gail Franklin Miller
 Charles D. Moyer
 Dennis E. Murray, Sr.
 Allan Nachman
 Michael E. Oldham
 Diane I. Olsson
 Anthony J. Pagano
 R. Eric Peterson
 Lee D. Powar
 James H. Quirk
 William B. Roberts
 Luis F. Rodriguez
 Norman P. Rowe
 Edward A. Ryder
 Richard A. Shapiro
 James L. Shonkwiler, Jr.
 Jeffrey B. Shulman
 Kurt Georg Siehr
 James W. Smith
 Webb Anthony Smith
 Herbert C. Snyder, Jr.
 Norman O. Stockmeyer, Jr.
 C. Peter Theut
 Paul L. Tractenberg
 Charles K. Veenstra
 Lawrence W. Waggoner
 Edward A. White
 Robert C. White
 Ralph O. Wilbur
 Roger C. Wolf

1965

Donors 104
 Dollars \$121,116
 Participation 33%

EDSON R. SUNDERLAND
 CABINET
 William J. Bogaard
 LAYLIN K. JAMES CABINET
 Eric V. Brown, Jr.
 Thomas B. Ridgley
 Paul C. Sprenger

WILLIAM W. BISHOP, JR. CIRCLE
 Laurence D. Connor
 David A. Ebershoff
 Mark J. Levick
 Charles F. Niemeth
 Alan J. Olson

PARTNERS IN LEADERSHIP
 Albert E. Fowerbaugh
 Richard M. Helzberg
 Thomas Carson Lee
 John W. McCullough
 John A. Thurber
 John J. Ursu

PARTICIPATING DONORS
 Charles H. Aymond
 Thomas E. Baker
 Bruce R. Bancroft
 Roy H. Batista
 Francis E. Bentley
 Larry J. Bingham
 Richard Lee Blatt
 John H. Blish
 J. Walter Brock
 Helman R. Brook
 Herbert H. Brown
 James R. Brown
 Christopher L. Carson
 Joan V. Churchill
 Charles E. Clark
 R. Theodore Clark, Jr.
 Charles C. Cohen
 Terrence Lee Croft
 Robert H. Daskal
 James T. Dodds
 David D. Dodge
 L. Garrett Dutton, Jr.
 David M. Ebel
 John W. Ester
 Richard L. Fairchild
 John P. Fernsler
 Robert B. Foster
 J. Noland Franz
 Sheila Gallagher
 John E. Gates
 David M. Goelzer
 Gerald A. Goray
 Dennis D. Grant
 Paul Groffsky
 Douglas I. Hague
 Morris A. Halpern
 Patricia M. Hanson
 Boyd A. Henderson
 Edward Henneke
 Daniel B. Hess
 Robert H. Holmes
 Ralph H. Houghton, Jr.
 R. Ian Hunter
 David S. Jacobson
 Marco A. Jagmetti
 David R. Johnston
 Thomas L. Jones
 Jerome H. Kearns
 Charles B. Keenan, Jr.
 James M. Kefauver
 John F. Kern
 James M. Kieffer
 Philip S. King
 Robert M. Klein
 Henry J. Koehler, IV
 Eugene W. Lewis, III
 Richard N. Light
 Paul M. Lurie
 Michael J. Lynch

Sarah Ann Margulies
 J. Gary McEachen
 Michael J. McHale
 Ronald Jay Meltzer
 Neil R. Mitchell
 Charles G. Nickson
 Peter A. Patterson
 Terry G. Paup
 James K. Perrin
 William C. Potter
 Richard J. Rankin, Jr.
 Douglas J. Rasmussen
 Justin C. Ravitz
 David F. Rees
 Lawrence J. Ross
 Paul A. Rothman
 James E. Scanlon
 Frederick B. Schwarze
 Anthony J. Scirica
 Jon M. Sebaly
 Gary J. Shapira
 Jerome M. Smith
 Kenneth L. Spangler
 Benjamin Steiner
 Charles S. Tappan
 Phillip L. Thom
 F. David Trickey
 William M. Troutman
 Paul Weinberg
 Robert G. Wise
 Timothy D. Wittlinger

1966

Donors 137
 Dollars \$256,999
 Participation 39%

THOMAS M. COOLEY CABINET
 Samuel Zell

EDSON R. SUNDERLAND
 CABINET
 Ronald L. Olson

PAUL G. KAUPER CABINET
 Benjamin F. Garmer, III
 Richard C. Sneed

WILLIAM W. BISHOP, JR. CIRCLE
 Henry W. Ewalt
 J. Alan Galbraith
 Fred E. Schlegel

PARTNERS IN LEADERSHIP
 Robert W. Beicke
 Alfred M. Butzbaugh
 Douglas M. Cain
 Dewey B. Crawford
 Robert E. Epstein
 Roger A. Goldman
 Robert V. Herbert
 Gilbert V. Indeglia
 Steven M. Kin
 James G. Phillip
 Thomas A. Pliskin
 Richard F. Vitkus
 William T. Wood, Jr.
 Kenneth J. Wysoglad

PARTICIPATING DONORS
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 William C. Anderson
 James G. Barnes
 William G. Barris
 Michael C. Bellas
 Robert S. Berkowitz

Jonathan L. Birge
 Stephen A. Bodzin
 Terrance K. Boyle
 Nathaniel P. Breed, Jr.
 Emilio Jorge Cardenas
 Jon D. Carlson
 Renato L. Cayetano
 Thomas Duvall Chase
 Harvey Chayot
 A. Balfour Chinn, Jr.
 George C. Coggins
 William M. Colby
 James F. Companion
 R. Malcolm Cumming
 Frank S. Dickerson, III
 Robert A. Dimling
 William E. Doster
 Dennis C. Drury
 George M. Elsener
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 S. Cody Engle
 Robert J. Epstein
 James C. Ervin, Jr.
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 Michael R. Fegen
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 Sidney L. Frank
 John R. Gaffin
 Thomas D. Geil
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 Robert E. Gilbert
 Robert H. Gillette
 David N. Goldsweig
 Michael D. Gordon
 Raymond Green
 Bruce M. Groom
 Hiram S. Grossman
 William M. Guinn
 Stephen L. Gutman
 Kenneth R. Harker, Jr.
 Michael G. Harrison
 William S. Hawgood, II
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 Robert E. Heller
 Robert V. Herbert
 E. Franklin Hill, Jr.
 Robert E. Hollenshead
 Robert E. Hollweg
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 Jeffrey W. Hutson
 Duane H. Ilvedson
 Jon C. Jacobson
 George L. Jenkins
 David R. Johnson
 J. Michael Kapp
 Dennis S. Kayes
 Bailey H. Kuklin
 Kenneth J. La Motte
 R. Bruce Laidlaw
 James T. Leavitt, Jr.
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 Edward P. Levy
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 Robert F. Ludgin
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 William F. Marx
 Robert P. McBain
 F. William McCarty
 William S. McDowell
 David L. McMurray
 Michael Jay Mehr
 George D. Melling, Jr.

John R. Monson
 David B. Mueller
 George B. Mullison
 John R. Nolon
 Kenneth R. Oosterhouse
 Xhafer Orhan
 Ronald P. Oselka
 William C. Panzer
 James P. Parker
 Sanford Passer
 Robert Smylie Payne
 Peter A. Pfaffenroth
 Ronald S. Pretekin
 Gary L. Price
 John C. Provine
 Richard E. Rassel
 Thomas R. Reinsma
 Jerrell P. Rosenbluth
 Maurice E. Schoenberger
 Robert G. Schuchardt
 Erik H. Serr
 Lawrence J. Sherman
 Richard J. Smith
 Kenneth F. Snyder
 Earl H. Staelin
 William C. Steuk
 Judith L. Teichman
 Charles D. Todd
 Stuart C. Unger, Jr.
 Lawrence R. Van Til
 David J. Wahr
 John M. Walker, Jr.
 Thomas G. Washing
 James C. Westin
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 Gary Widman
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1967

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 Participation 40%

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Donors144
Dollars\$136,406
Participation44%

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Donors86
Dollars\$35,630
Participation33%

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Dollars\$129,955
Participation35%

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Dollars\$147,742
Participation36%

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James S. Wulach
Robert Zegster
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1973

Donors150
Dollars\$103,422
Participation33%

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1975
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 Dollars\$44,505
 Participation31%

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 Barry F. White
 Nobutoshi Yamanouchi
 Paula Marie Zera

1976
 Donors111
 Dollars\$60,355
 Participation28%

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 Yvonne Susan Quinn

LAYLIN K. JAMES CABINET
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Dollars\$65,504
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1982

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Dollars\$41,654
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For pages 11-28: This Honor Roll reflects gifts received July 1, 1998 to June 30, 1999.



Winner's view —

Photos at right and below, by Christopher Lark, showcase the renovation of the Lawyers Club Lounge that won second place in the Association of University Interior Designers competition last year. Photo at left, courtesy of University Housing Design Services, shows the lounge prior to renovation. See story on page 29.



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