THE UNIVERSITY OF MICHIGAN
LAW SCHOOL

VOLUME 44 • NUMBER 1
SPRING 2001

LAW QUADRANGLE NOTES

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Ties Across the Sea

Can Turtles Teach about Whales?

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Upcoming Events

May 4	Law School Honors Convocation
May 5	Senior Day
May 9	Michigan Spring Seminars
May 12-17	Clarence Darrow Death Penalty Defense College
May 17-19	Child Welfare Law Summer Fellowship Training
May 23-26	Symposium — "The Impact on International Law of a Decade of Measures against Iraq," co-sponsored by the Law School and the *European Journal of International Law*, European University Institute, Florence, Italy
May 31 – June 2	Emeritus Reunion Weekend
June 12	Washtenaw County Area Alumni Luncheon
August 2-8	ABA Annual Meeting, Chicago
September 14-16	Reunion of Classes of 1976, '81, '86, '91, and '96
September 21-23	Reunion of Classes of 1951, '56, '61, '66, and '71
October 11-13	Committee of Visitors Meeting
January 3-7, 2002	Association of American Law Schools Annual Meeting, New Orleans

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On the Cover:
Warm sunlight and spring flowers complement the portico outside the Lawyers Club.

PHOTO BY PHILIP T. DATILLO

INSIDE

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2 DEAN'S MESSAGE

3 BRIEFS
- *Miranda* in light of *Dickerson*
- The Americans with Disabilities Act goes under the microscope
- British Minister of State: Law lags behind Internet Age commerce

26 FACULTY
- Searching out *The Mystery of Courage*
- Un-blurring the borders between judicial and policy debate
- Professorships honor distinguished faculty

35 ALUMNI
- Jochen Frowein, M.C.L. '58, plays pivotal role in Austrian sanctions issue
- Hirshon: 'His face told me everything I really needed to know'
- Graduates offer directions on the road to clerkship

51 FEATURE
- TO CONTRIBUTE AND TO EXCEL
  A sampler of accomplishments that show how Law School students shine — even before they graduate.

ARTICLES

64 RESCUE AND THE WAR STORY
It is precisely in the domain of rescue that twentieth-century battle has made its peculiar addition to the styles of the heroic. Our war stories often become rescue stories even when they start out as efforts in the old genre, sometimes it seems, in spite of themselves.
— *William Ian Miller*

68 TIES ACROSS THE SEA
A partnership in legal education links Japan and the Law, expressing itself in the regular interchange of people and ideas, as shown by the articles that follow.
— *Mark D. West*

70 CAN TURTLES TEACH ABOUT WHALES?
— *Robert L. Howse*

75 JURIES: INVESTMENTS IN DEMOCRACY
— *Richard O. Lempert, '68*

81 CREDIT CARDS IN THE UNITED STATES AND JAPAN
— *Ronald L. Mann*

H.R.1 ANNUAL HONOR ROLL OF DONORS

MESSAGE FROM DEAN LEHMAN

My theme for this year has been the quality of optimism. In two previous messages, I suggested that there is a sensible form of optimism, significantly different from the blather spouted by Voltaire's fictional Dr. Pangloss. And I suggested that the best lawyers often exemplify this moderated quality: they are pragmatic activists, inspired by a belief in their own efficacy.

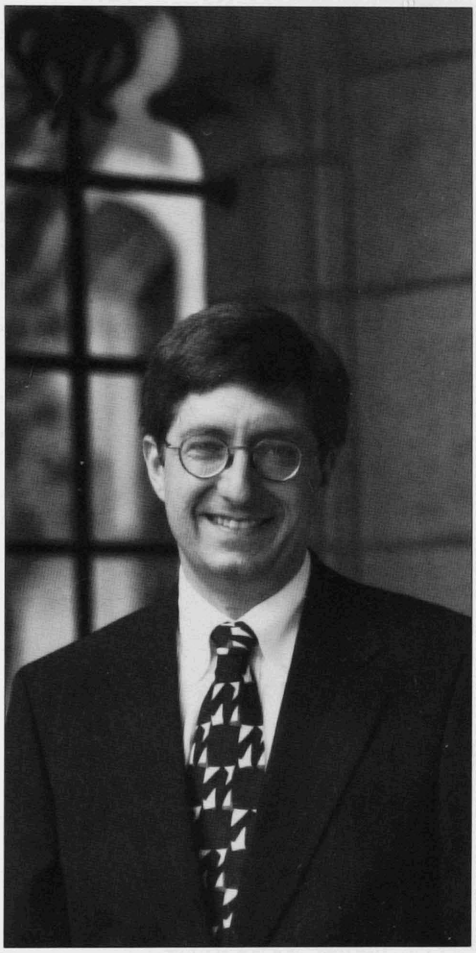
A decade ago, University of Michigan psychology professor Christopher Peterson and his collaborator Lisa Bossio surveyed the extensive literature concerning the relationship between optimism and physical health. Their book, *Health and Optimism* (Basic Books 1991), offers insights that can help us to explore this terrain with greater specificity.

Peterson and Bossio define optimism in cognitive, rather than emotional, terms. Their definition entails a set of beliefs about the real world, beliefs that lead people to approach the world actively, gathering information they can use to solve problems. The authors measure subjects' optimism according to how they explain the causes of misfortunes they experience. Optimists are those who attribute bad events to causes that are *external* to themselves, *unstable* (i.e., ephemeral), and *specific* to the particular event.

Peterson and Bossio describe many interesting studies that link optimistic thinking with such different health attributes as reduced incidence of the flu and prolonged survival after breast cancer. And they offer thoughtful suggestions about how such a relationship might be explained.

I suspect, however, that lawyers would be most interested in their discussion of the relationship between optimism and problem solving. The authors first discuss the experimental analysis of "learned helplessness." Dogs and people were subjected to unpleasant occurrences over which they had no control (electric shocks for the dogs, problems that can't be solved for the people). Those experiences made them *less effective* than their counterparts when they later confronted other situations in which they had greater control.

Optimistic people were less prone to learned helplessness than pessimists. The authors found a significant difference between the two groups in the *scope* of the learned helplessness effect. Pessimists tend to generalize their experience of helplessness from one kind of task to another kind. Optimists, in contrast, tend to restrict the helplessness lesson to domains that are closely similar to the domain of initial frustration.



I suggested that the best lawyers often exemplify this moderated quality: they are pragmatic activists, inspired by a belief in their own efficacy.

I recently witnessed the real-world benefits of such an approach. During January and February, the lawsuit over our admissions policy went to trial, and I had the opportunity to work closely with a team of extraordinarily talented lawyers. Over the course of an exhausting month, I was frequently inspired by their unflagging resilience. They built an impressive factual record in support of our position, and I am convinced that part of why they were so effective was that they shared a group ethic of optimism.

Whenever a setback occurred (for example, when the judge denied a motion), the most senior lawyers set the tone. They did not take the setback as indicative of any stable or general cause (such as a general predisposition by the judge against our case). They saw it as a momentary hindrance that said nothing about what would happen next.

Over the course of the trial, the junior lawyers came to emulate their more experienced colleagues. None of them were Pollyannas; they did not believe that things would work out for the best, regardless of what they did. But they believed that what they did *could* make a difference. They were motivated to work heroically to ensure that they put on the best case possible. And we, their clients at the Law School, were the ultimate beneficiaries of both their abilities and their attitudes.

It is reasonable to ask whether a law school can help nurture that quality in its students. I suspect that we can. Not by preaching, and perhaps not by the Socratic method. But perhaps we can model for our students an optimistic approach to our environment. We could consciously look for realistic evidence that the causes of misfortune are external, unstable, and specific, and resist the impulse to see them as internal, stable, and general. We might thereby help them to develop reflexes that will help them to be healthier and more successful attorneys.

Miranda in light of *Dickerson*

"*Miranda*," Chief Justice William Rehnquist said last summer in *Dickerson v. U.S.*, the U.S. Supreme Court decision upholding the famous warning to suspects, "has become embedded in routine police practice to the point where the warnings have become part of our national culture."

The warnings — which require interrogators to tell the person they have in custody that he can remain silent, have an attorney, or stop responding to questions at any time — are a constitutional protection that Congress cannot overrule, wrote Rehnquist, a onetime critic of *Miranda*. They are not mere "prophylactic" safeguards, the Chief Justice said.

Wrote *American Lawyer Media's* Tony Mauro of the decision — "It was a historic moment: The 1966 Miranda decision, written by Chief Justice Earl Warren, is the totem of the Warren Court's liberal jurisprudence — a body of law Rehnquist has done battle with his entire judicial career."

As always, however, questions arose like echoes as time passed. And many of those questions were addressed at the Law School last fall as scholars from around the country gathered for the symposium "*Miranda* after *Dickerson*: The Future of Confession Law."

Unbowed, *Miranda* critic Paul G. Cassell of the University of Utah Law School repeated his charge that *Miranda* hampers law enforcement and endangers society. *Miranda* is a "significant impediment to police efforts" to solve and prosecute crimes, said Cassell, who argued the *Dickerson* case before the Supreme Court last spring. The law enforcement profession has reported "directly and unequivocally" that *Miranda* damages its ability to enforce the law, he argued.

Equally unbowed, *Miranda* defender Yale Kamisar, Clarence Darrow Distinguished University Professor of Law at the Law School, repeated his charges that police interrogators sometimes exceed reasonable limits and that a rule like *Miranda* is needed to hold the line.

To the surprise of many, however, Cassell and Kamisar found common ground in suggesting that interrogations be videotaped for the protection of suspect and interrogator alike.

"I'm willing to put videotaping on the table," Cassell said early in the conference. "Are you willing to give me something in return?"

Yes, responded Kamisar. A videotaping or audiotaping of the entire proceedings (how the warnings were given, how the suspect responded, and what happened thereafter) would justify a shortening of the *Miranda* warnings. Such a system would provide a suspect with more protection than he receives under the current *Miranda* regime. Kamisar expressed confidence that such legislation would be upheld

Continued on page 4

Yale Kamisar, the Clarence Darrow Distinguished University Professor of Law, outlines the legal context that led to the Miranda *decision in 1966 and its aftermath up to the* Dickerson *case last year.*

BRIEFS

3 *Miranda* in light of *Dickerson*

5 Law School admissions lawsuit update

6 The Americans with Disabilities Act goes under the microscope

7 Disabilities moving to center of civil rights arena, says EEOC commissioner

8 British Minister of State: Law lags behind Internet Age commerce

9 Headnotes issue CD

10 Law School breaks 'virtual' ground in refugee law field

12 Faculty 13, students 10

13 Service Day labors yield big results

14 Senior Day: December 16, 2000

16 Examining careers from the inside

17 The public service horizon — at home and abroad

18 Practice, practice, practice paves road to state judgeships

19 Following the 'cutting edge' around the world

21 Exercising academic and intellectual freedom

22 Legal Assistance for Urban Communities — 10 years and counting

Continued from page 3

by the Supreme Court.

Their exchange occurred during discussion of "Alternatives to the *Miranda* Warnings," one of six panel discussions at the conference. Other panels discussed the Supreme Court's power to issue prophylactic rules, *Miranda's* relevance or irrelevance, pre-*Dickerson* exceptions to *Miranda*, deterring police from deliberately violating *Miranda*, and limits to deceptive interrogation practices.

Throughout the discussions, participants praised Kamisar's often-passionate role in the continued attention to *Miranda* and other constitutional issues. As Dean Jeffrey S. Lehman, '81, said in his welcome to participants, throughout his career Kamisar has been a superb example of "professor, scholar, advocate, and lawyer." Los Angeles-based ACLU General Counsel Mark Rosenbaum, who frequently teaches at the Law School, called Kamisar "the exemplar of the professor, lawyer, and citizen."

Kamisar joined the Law School faculty in 1965, the year before the Warren Court handed down the *Miranda* decision. The proposed warning that came out of the *Miranda* case 35 years ago was the result of many years of judicial wrestling with the interlocked issues of interrogation, confession, and evidence, Kamisar said. "*Miranda* was based on the idea that case-by-case determination is severely testing the judiciary," he said.

But today there is widespread disregard for this safeguard, argued Rosenbaum. Last year, for example, at least one law enforcement leader openly advocated circumvention of *Miranda,* he said. "How is it that 34 years after the *Miranda* decision that the California Trainer of the Year says officers can ignore *Miranda* and go outside *Miranda*?" Rosenbaum asked.

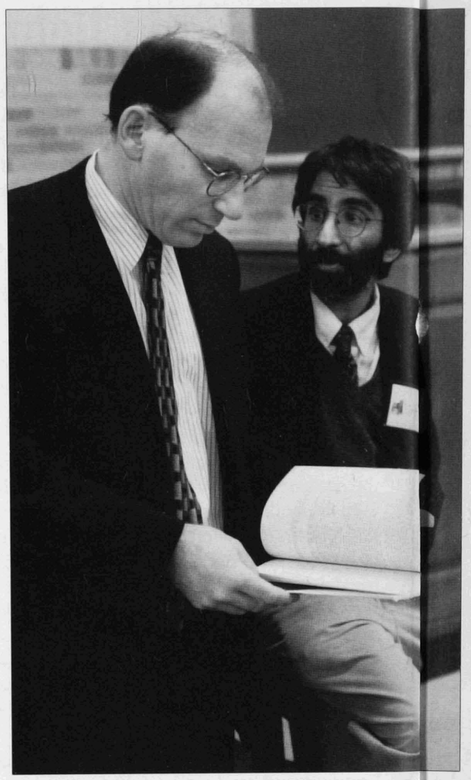
"What do we make of this? One, left to their own devices, police will do what they choose to do and they will do it with impunity. Two, they know they can do this free from sanction. No one has ever heard of an officer being disciplined for ignoring *Miranda.* The genius of police going outside *Miranda* is that they use *Miranda* as a rubber hose."

Officers of the Michigan State Police who were in the audience criticized Rosenbaum's charge that there is "a culture of lawlessness" among the police. Responding to the comments of Rosenbaum and other panelists, the officers said they abide by *Miranda* and do not deceive suspects into confessing. The majority of confessions are obtained without deception and use "straightforward, straight up evidence against the defendant," one officer said.

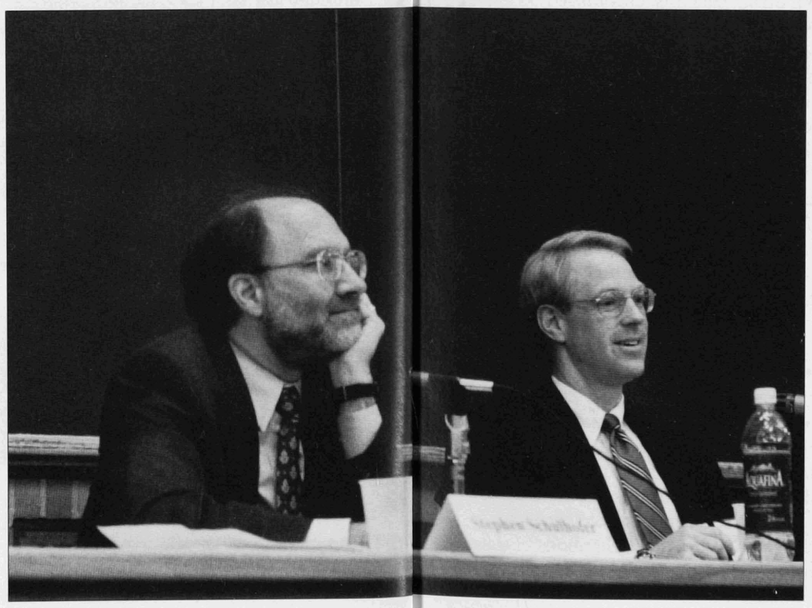
For the future, conference participants agreed, little will change with *Miranda. Dickerson* has made congressional alteration of the warnings unlikely, although not impossible. Some day, however, although that day may not be in the near future, all 50 states will require that interrogations be audio- or videotaped.

The lineup of symposium presenters read like a *Who's Who* of experts in the field. In addition to Cassell, Kamisar, and Rosenbaum, presenters included:

- **Akhil Reed Amar**, Southmayd Professor of Law, Yale Law School;
- **Evan Caminker**, Professor of Law, University of Michigan Law School;
- **Susan R. Klein**, Baker & Botts Professor of Law, University of Texas at Austin;
- **Richard Leo**, Assistant Professor of Criminology, Law and Society, and Assistant Professor of Psychology and Social Behavior, University of California-Irvine;
- **Laurie Magid**, Special Assistant District Attorney for Delaware County, Pennsylvania, and Lecturer at Villanova Law School;
- **Stephen Schulhofer**, Julius Kreeger Professor of Law and Criminology and Director of the Center for Studies in Criminal Justice, University of Chicago Law School;
- **David A. Strauss**, Harry N. Wyatt Professor of Law, University of Chicago Law School;
- **William J. Stuntz**, Professor of Law, Harvard University;
- **George C. Thomas III**, Professor of Law, Rutgers School of Law;
- **Charles D. Weisselberg**, Professor of Law and Director of the Center for Clinical Education, Boalt Hall School of Law, University of California-Berkeley; and
- **Welsh White**, Professor of Law, Pittsburgh School of Law.



David A. Strauss, of the University of Chicago Law School, and Akhil Reed Amar, of Yale Law School, continue their discussion after serving as panelists to evaluate "The Supreme Court's Power to Issue Prophylactic Rules."



Miranda *opponent Paul G. Cassell, of the University of Utah, center, shares a light moment with* Miranda *supporter Yale Kamisar, the Law School's Clarence Darrow Distinguished University Professor of Law, during the symposium "*Miranda *after* Dickerson*: The Future of Confession Law," held at the Law School in November. At left is Eve Brensike, symposium coordinator for* The Michigan Law Review *and the Criminal Law Society, which co-sponsored the conference.*

Panelists Stephen Schulhofer of the University of Chicago Law School, and Paul G. Cassell, of the University of Utah, listen to an audience member's question after their discussion of "Alternatives to the Miranda *Warnings." Other panels addressed "The Supreme Court's Power to Issue Prophylactic Rules," "*Miranda*'s (Ir)Relevance," "The Fate of the Pre-*Dickerson *Exceptions to* Miranda*," "Deterring Police from Deliberately Violating* Miranda*," and "Deceptive Police Interrogation Practices: How Far Is Too Far?"*

Law School admissions lawsuit update

The trial of the lawsuit challenging Law School admission policies began in Detroit in mid-January and concluded in February. Judge Bernard Friedman of the U.S. District Court issued his decision in March finding that the educational benefits of diversity were not a compelling interest and that the specifics of the Law School's policy were not "narrowly tailored" to that interest. He also found that the intervenors' defense was essentially based on remedying societal discrimination; which is impermissible. He issued an order that the Law School cease considering race in its admissions process. On April 5, the Court of Appeals issued a stay of the District Court order while the appeal proceeds.

"We are delighted that the Sixth Circuit has acted promptly to ensure that our admissions process may continue without disruption," Dean Jeffrey S. Lehman, '81, said when he was informed about the stay. "Our admissions policy was carefully crafted to comply with the Supreme Court's requirements as set forth in the *Bakke* case. As the Sixth Circuit noted, Judge Friedman's opinion diverged from other recent interpretations of *Bakke*. We are confident that future decisions will continue to reaffirm our right to use that policy to enroll an outstanding, diverse student body at the University of Michigan Law School. "

It is important to note that last December Judge Patrick Duggan, also of the District Court, granted summary judgment in the University's favor in a similar lawsuit against the University of Michigan undergraduate program. In that ruling, Judge Duggan found that the pursuit of the educational benefits of diversity is a compelling governmental interest, and that the University's current admissions policy is fully constitutional. That case has been appealed to the Sixth Circuit Court of Appeals.

Both the Law School case and the undergraduate case are being reviewed on an expedited basis in the Sixth Circuit. Oral argument will be held in the October 2001 term of the court (October 22 - November 2).

The Americans with Disabilities Act goes under the microscope

Supporters of the Americans with Disabilities Act (ADA) give it a mixed report card for its first 10 years. But they are reluctant to try to amend the federal law because they fear that amendments fashioned in today's political and judicial climate would weaken rather than strengthen it.

Their assessment: ADA has brought people with disabilities into the national civil rights spotlight, helped to level the playing field for disabled people, and served as a model for similar efforts worldwide, efforts that sometimes have exceeded accomplishments in the United States. ADA also faces stiffening opposition from a U.S. Supreme Court that increasingly emphasizes states' prerogatives, insufficient funding for enforcement, and docket-choking litigation to determine who has the "substantial limitation" that qualifies for ADA protection.

This mixed assessment reflects two days of discussions during the symposium "The Americans with Disabilities Act: Directions for Reform," presented at the Law School in November by the *University of Michigan Journal of Law Reform*.

The ADA "is just a baby, it's just beginning," according to symposium panelist Barbara Judy, West Virginia's director of ADA compliance. "We have a long way to go before we say that ADA is where we want it to be."

Workplace supervisors need more training on ADA issues, and mediation should be used more often to settle disputes, Judy said. Physicians need more training to understand how a patient's disability affects workplace performance. People with disabilities make up the largest minority group in the United States, she said, "but corporate America has not recruited them with the same vigor as [it has recruited] blacks, Asians, women, Native Americans, and Hispanics."

Supporters of the rights of people with disabilities also need to show more unity, she added. "I think people with advocacy groups need to get together and get us in the same hymnbook, certainly on the same page."

Judy, speaking during the "Directions for Reform" roundtable that closed the symposium, joined her co-panelists in cautioning against broad-brush definitions and urged a one-on-one approach to dealing with disabilities issues. "Disabled people come in groups of one," she said.

Roundtable panelist David Deromedi, of Dickinson Wright P.L.L.C. in Detroit, reported "a slow but gradual change in behavior" among employers in favor of doing what is needed to ensure a disabled person's ability to work. "A lot of the wall of suspicion is coming down, and a lot of communication, strong communication, one-on-one communication, is increasing," said Deromedi, who has represented more than 200 employers in ADA cases. Discussion and negotiation help a great deal, he said. They "are not part of the law, but they could well be."

University of Maryland Law Professor Stanley Herr, the least sanguine of the three roundtable panelists, encouraged people to look at what other countries are doing to assist citizens with disabilities. "We know the ADA is not a panacea, and we need to look abroad," he said. Sweden's law on functional limitation, which provides for an assistant when the disabled person needs one, offers "a whole array of support that makes equality real," Herr said.

The success or failure of ADA "will resound internationally, because around the world people regard the ADA as a treasure," he added.

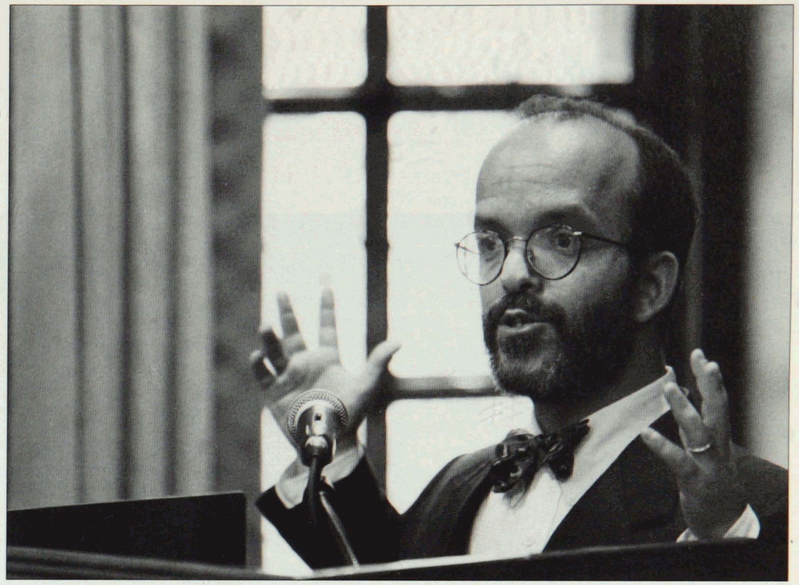
Judy, Deromedi, and Herr were among nearly 25 speakers and panelists for the two-day program. Panels dealt with the purpose of ADA, how to define disability, the ADA's impact in education, the ADA and mental health disabilities, issues of state sovereignty in relation to the federal ADA, and directions for reform.

Several speakers criticized the U.S. Supreme Court's recent elevations of states' sovereign powers. Arlene B. Mayerson, one of two keynote speakers and a principal attorney in the *University of Alabama v. Garrett* case recently argued before the Supreme Court, said that recent Court decisions forced her and her colleagues to argue that Garrett was the victim of irrational action or action "fueled by discriminatory intent."

"I found this to be a very small box," said Mayerson, directing attorney for the Disability Rights Education & Defense Fund Inc. "The real problem we faced was to define material equality in formal equality terms. It was very frustrating not to be able to argue a straight equal protection argument."

San Francisco State University Professor of Philosophy Anita Silvers criticized as "irony" the Court's emphasis on states' prerogatives "in this time of borders breaking down. . . . We do not live in discreet jurisdictions the way we did 100 years ago."

Continued on page 8



ABOVE: *"We are on the cusp of an exciting new civil rights movement — the disability movement," Paul Miller, of the Equal Employment Opportunity Commission, tells a Law School audience in September. Miller spoke at the Michigan Union.*

LEFT: *Throughout the conference, proceedings were made available to hearing-impaired participants via monitors like these in the foreground. This panel's topic was "How Should We Define Disability for Purposes of the ADA?" From left are: Robin Jones, director of the Great Lakes Disability and Business Technical Assistance Center at the University of Illinois-Chicago; Peter Blanck, professor of law at the University of Iowa College of Law; Martin Pernick, associate director for history and medicine of the Program in Society and Medicine, and professor of history at the University of Michigan; and Richard Scotch, associate professor of sociology and political science at the University of Texas-Dallas. Assistant Dean David Baum, '89, far right, introduced panelists and moderated discussion.*

Disabilities moving to center of civil rights arena, says EEOC commissioner

It's time for people with disabilities to join racial, ethnic, religious, and other beneficiaries of the civil rights movement — and their vehicle is the Americans with Disabilities Act (ADA).

That's the word from Equal Employment Opportunity Commission (EEOC) member Paul Miller, who addressed a luncheon audience in September in a program presented by the Law School's offices of Career Services and Public Service.

"We are on the cusp of an exciting new civil rights movement — the disability movement," Miller said. Passed a decade ago, "ADA seeks to bring disability discrimination to parity with other civil rights. It seeks to ensure that people with disabilities are integrated into the mainstream."

Like the landmark U.S. Supreme Court decision *Brown v. Board of Education* in 1954, the ADA is "a simple and revolutionary law" that "seeks to eliminate what prevents full achievement."

"I know how it feels to be trapped inside someone else's stereotype, and it doesn't feel good," explained Miller, who recalled how an interviewer once told him that his diminutive size might subject the interviewer's firm to ridicule.

Promoting equality for people with disabilities has not blinded Miller to shortfalls elsewhere in the civil rights arena. "Bigotry and discrimination are still alive and well today," he noted. While men hold 95 percent of senior management jobs they make up less than half of the workforce. In addition, "we are facing a backlash against civil rights and affirmative action."

He concluded: "I want to challenge you: Don't lose sight of the reason you went to law school in the first place. I am here to tell you that it is possible to do good, and do well, and to pay off your student loans."

Continued from page 7

There are 56 million U.S. citizens with disabilities, explained Andrew Imparato, president and CEO of the American Association of People with Disabilities. Although the National Council on Disability's recent report "largely concluded that [federal] enforcement of ADA is not as good as it could be," Imparato said, the law has "fundamentally affected the way that Americans view disability" and serves as "a unifying focus for the disability rights movement."

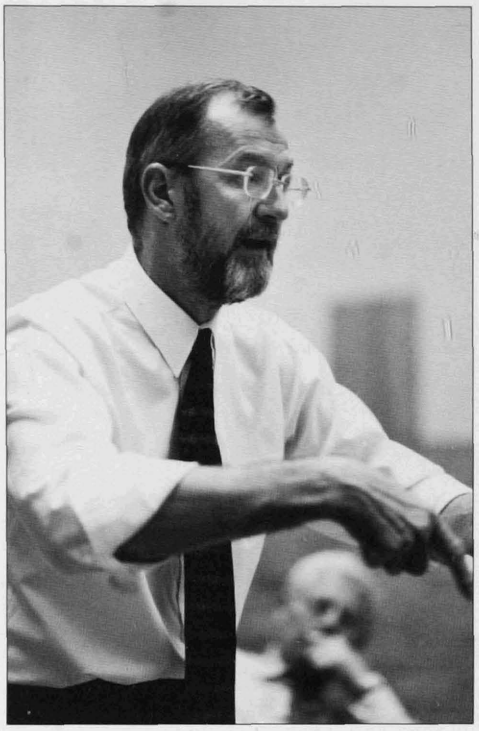
For example, ADA has had major impact on building practices and in public transportation, where more than 80 percent of public transportation now is accessible to disabled users. Disability also has become part of the language of diversity, which tries to mix together people of different races, religions, ethnic backgrounds — and now disabilities.

"People with disabilities were left behind" during the current economic boom, countered Judy Young, director of Abilities Inc. at the National Center for Disability Services. Unemployment of African-Americans was 7.5 percent last May, the lowest since 1972, but "most experts on disability claim that 70 percent of disabled people are still unemployed."

In the end, said University of Texas-Dallas sociologist/political economist Richard Scotch, author of *From Good Will to Civil Rights: Transforming Federal Disability Policy,* "ADA is trying to broaden the range of disabilities that the environment can accommodate. That's a very difficult intent of the law to deal with and for the courts to deal with. . . .

"What it requires is a good deal of flexibility and goodwill. What it really requires is a widespread societal sensitivity and awareness to what it is to have a disability, and of course, if people had that sensitivity and awareness we wouldn't need a law. I'll leave that question for you to ponder."

British Minister of State: Law lags behind Internet Age commerce



Nearly half of trade between the United States and Europe is "internal housekeeping" within multinational companies, British Minister of State John Battle explains during a talk at the Law School in September. Behind Battle is New York-based British Counsel General Tom Harris.

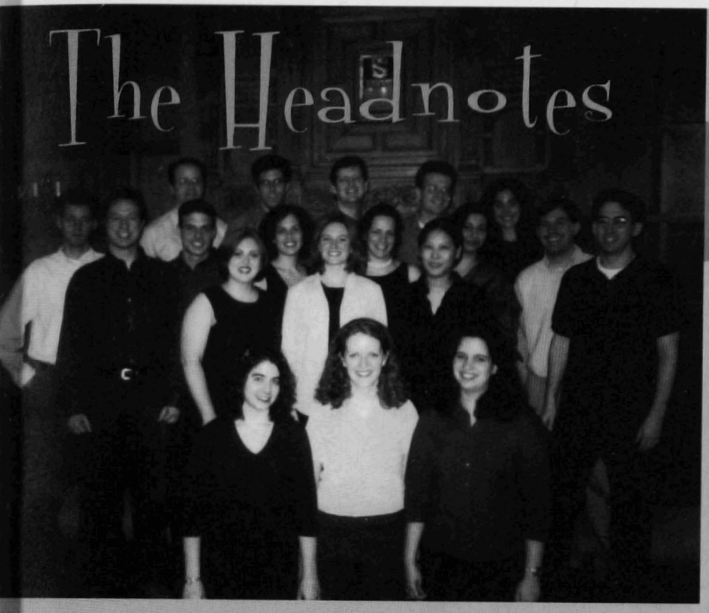
International trade and commerce in the Internet Age are widening their lead over the laws designed to regulate them, British Minister of State John Battle told a Law School audience in September. And the forms and shape of today's trade look radically different from 15 years ago, he said.

"We need to recognize that people will lose their old-line jobs," Battle said. "The concept of one job for your career is outmoded. Our children will have several jobs . . . and there is a need for lifelong learning. . . . We must challenge companies to train people.

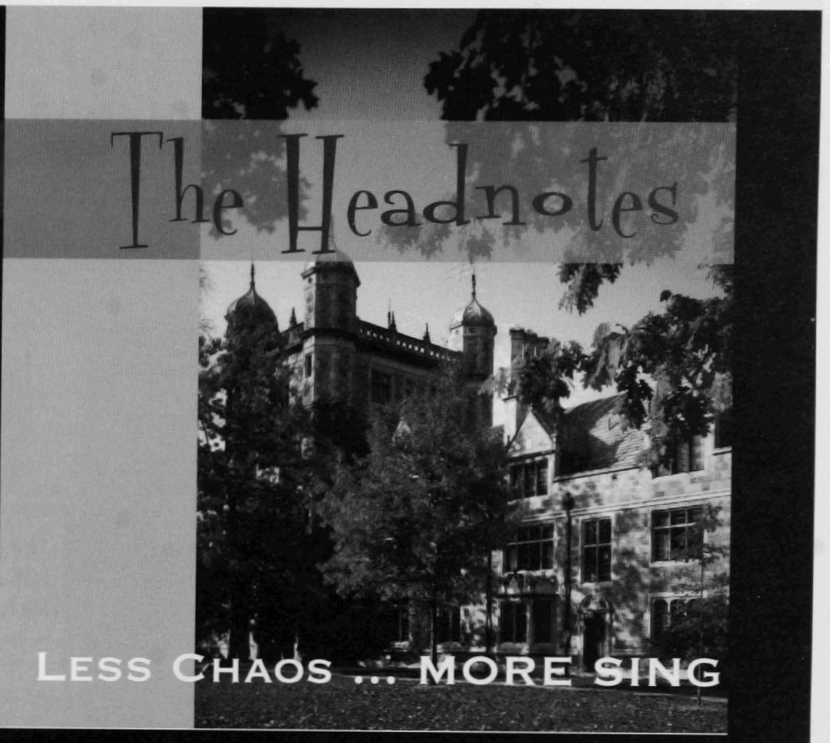
"[And] trade itself is changing. Forty percent of the U.S.-European Union trade is intra-firm," like "internal housekeeping. This is a massive sort of change from the company of 15-20 years ago."

As for the Internet's impact, it is the fastest growing part of commerce. And with mobile access, like cordless telephones, "we face challenges with commerce that we have not begun to legislate for. Digital television, e-commerce and -communication, and other changes "will transform business and the way we run our countries" and "will change our democracies," he predicted.

Law School Professor Robert Howse introduced Battle. New York City-based British Counsel General Tom Harris shared the speaker's table with Battle.



(TOP ROW LEFT TO RIGHT) GREG FELDKAMP, ERIC BAKER, V.P. WALLING, JOHN KNEPPER, MATT GERKE, TARA MCCARTHY
(3RD ROW) DEREK JOHNSON, BEN MIZER, AVERI MILES, ALEXANDRA LEE, JASMINE ABDEL-KHALIK, JEFF CROUCH
(2ND ROW) JANE LARRINGTON, HALEY MILLER, PATTY SONG, JEFF "JEFE" GUTKIN
(1ST ROW) COREEN DUFFY, AMY HARWELL, EVA GOLDSTEIN



HEADNOTES ISSUE CD

The Headnotes, the *a cappella* singing group made up of law students, has produced its first CD, "Less Chaos . . . More Sing."

With 14 selections ranging from standards like "Embraceable You" and "I Will Remember You" to the upbeat like "Pride" and the artistic like "Fa Una Canzone," the CD showcases the group's wide-ranging repertoire. The case insert's cast of characters also offers a glimpse into the personalities that percolate through the group:

Like President/Musical Director Jeff "Jefe" Gutkin, '00, aka "The Dictator," and Historian Jasmine Abdel-Khalik, '00, aka "The Soul Sister." Plus John Knepper, '01, "The Rock"; "Cat Woman" Tara McCarthy, '01; and "The Joker" Averi Miles, '01.5; And others.

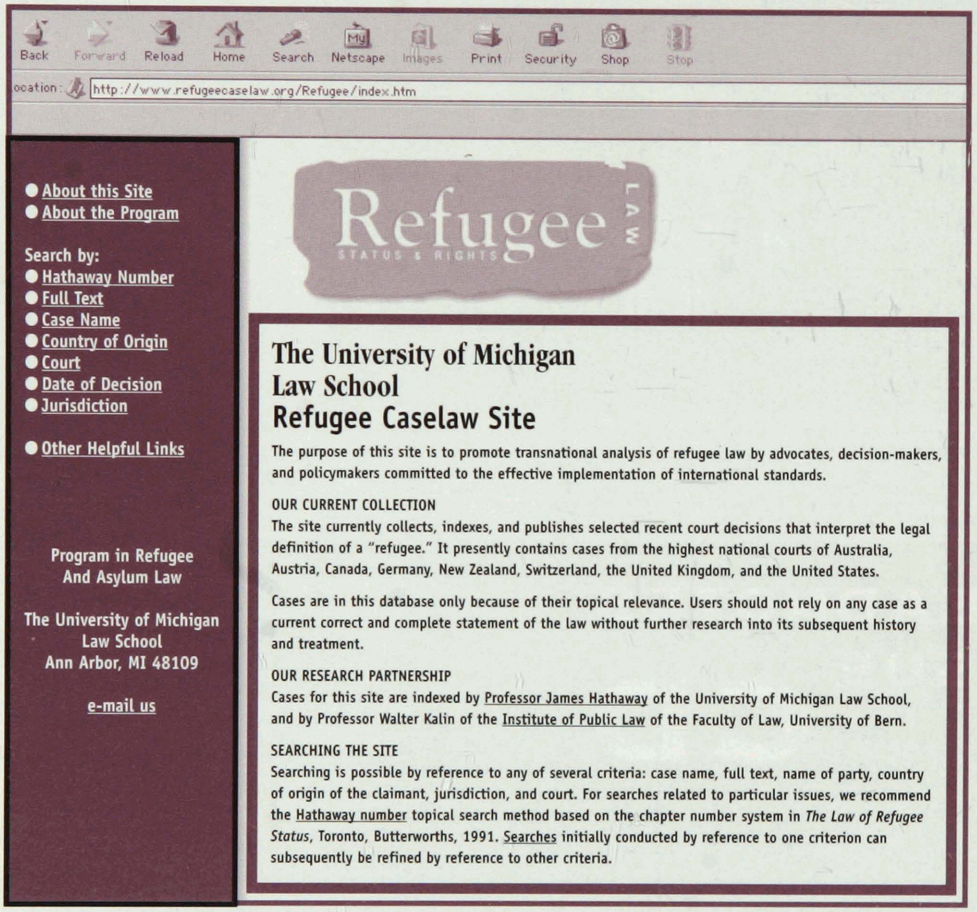
"'Less Chaos . . . More Sing' [the title perpetuates a member's directive to get back on track during a rehearsal] was painstakingly recorded and mixed in the University of Michigan Media Union during the spring and summer of 2000," says the insert. "Who woulda' thunk that eighteen law students and one General Mills engineer could find the time to do something as silly and as wonderful as record an *a cappella* CD?

"But we did."

They sure did.

For more information, e-mail hnotes@umich.edu.

Law School breaks 'virtual' ground in refugee law field



Fall 2000 saw University of Michigan Law School Professor James C. Hathaway launch an innovative Web site as part of his effort to promote a more globalized approach to the protection of refugees. The Refugee Caselaw Site (www.refugeecaselaw.org) is designed to promote transnational analysis of refugee law by policymakers, lawyers, and judges — and contains full-text judgments on refugee status rendered by the senior courts of leading asylum states. A unique feature of the site is that it allows for both structured and free-text searching. The site was among three Law School projects to receive laureate awards in 2000 through the Computerworld Smithsonian Awards program.

Deborah Anker, director of Harvard Law School's Refugee Law Center, says, "Finally, the resource we — scholars, practitioners, adjudicators — have all desperately needed. The site puts at your fingertips the key full-text refugee cases from different countries, with summaries and a search engine that allows you instantly to focus on your topic. This is a true gold mine for the development of refugee law internationally and for all of us working in the field."

The site is free, easy to work with, and all text can be copied and printed. Neatly complementing a curriculum in refugee and asylum law more extensive than that of any other law school, the new site underscores the University of Michigan's leadership role in international refugee law.

The Web site may be new, but there is nothing new about Hathaway's involvement in refugee and asylum law issues. For that, we would have to go back to his early experiences in law school. A one-term clinical program while completing his LL.B. degree at Osgoode Hall Law School in Toronto completely engaged him. It was the mid-1970s; Canada was receiving huge numbers of South American asylum seekers. "I was the only one at the clinic who spoke Spanish," Hathaway says. "Here I was, 22 years old and I was presented with the opportunity to work on complex legal issues, and for people whose lives were literally on the line." He was able to bring together the relevance of his undergraduate degree in international politics and his experience and understanding of how the world works. "To be able to do work that is really important, and to experience the challenge of working with people across linguistic and cultural divides, made lawyering exciting to me. I was hooked."

"I still find this area just as challenging as when I first started," he says. "The more you work on something, the more you realize you know too little."

Hathaway expresses a powerful sense of how many things there are yet to do. For instance, he points out that at one time, simply being declared to be a refugee was adequate protection. Now states are limiting entitlements. Involuntary migrants are likely to receive "a miserly version of generosity" — they may not be able to work and their children may not be educated. These realities are leading Hathaway into studying the human rights that should follow a refugee, and studying the threats to dignity that refugees experience. His explorations should result in a book he imagines will be completed in a couple of years.

The United States is one of 130 countries to sign a treaty agreeing to provide uniform treatment for refugees. "It does refugees an

injustice if we don't maintain uniformity," he says. This is one of the reasons why the new site is so important.

According to Geoffrey Care, president of the 400-member International Association of Refugee Law Judges, "The request that is made continuously is to provide a readily accessible database of important decisions made by courts in all parts of the world. What appears to be needed is a pool of up-to-date decisions from as wide a variety of judicial systems as is possible and covering all aspects of refugee law. . . . This [site] will fill a yawning gap in legal materials throughout the world in the area of asylum law and practice."

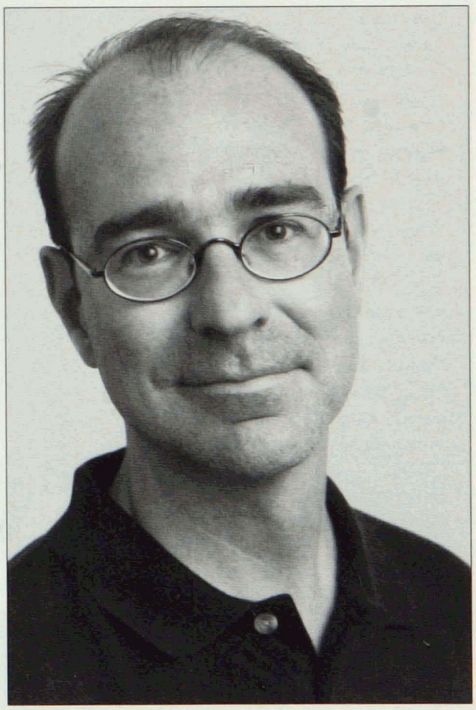
The Web site is the result of a research partnership between Hathaway and the Law School and Professor Walter Kälin of the Faculty of Law, University of Bern. In addition, LEXIS-NEXIS has made its entire collection of materials available through the site — also free of charge — so that people in geographic areas that might never have been able to access these resources now have them available for their use.

Because these materials are available, courts and tribunals around the world can respond to the arrival of refugees with knowledge about how other countries have dealt with the same issues. For example, South Africa is setting up a refugee system for the first time and judges need a resource to help them "come up to speed."

Rodger Haines, QC, deputy chair of the Refugee Status Appeals Authority of New Zealand, says that a major obstacle to interpreting and applying the Refugee Convention has been the "lack of access to the leading jurisprudence of the major asylum countries." Now international jurisprudence is accessible immediately.

The new site is an extension of the comprehensive Program in Refugee and Asylum Law at the Law School, for which Hathaway is the director. A generous gift from Ronald L. and Jane Olson to the Law School's Center for International and Comparative Law supports the Program in Refugee and Asylum Law. Ronald Olson is a 1966 graduate of the Law School and chairperson of the Law School's Committee of Visitors, while his wife, Jane, is founder and co-chair of the Human Rights Watch/California and serves as a member of the advisory board for the Law School's Center for International and Comparative Law. "This is an area where we could work together," Ronald Olson said in announcing their gift. "We could support both the Law School and further the work that Jane has done."

Hathaway came to the Law School faculty in 1998 from Osgoode Hall Law School of York University, Canada, where he taught for 14 years. He cites the Law School's commitment to developing this nontraditional field of law as a contributing factor in his decision to join the Michigan faculty. "This is the first law school in the United States to make a significant contribution to the area of international refugee law. I am extremely proud to be a part of an institution so profoundly committed to innovation in its international law curriculum."



James C. Hathaway

Searching the site

Searches can be made in a variety of useful ways:

- **by Hathaway number (an internationally recognized indexing system developed by Professor James C. Hathaway);**
- **by full text;**
- **by case name;**
- **by country of origin;**
- **by court;**
- **by date of decision;**
- **and by jurisdiction.**

A program of many parts

The Program in Refugee and Asylum Law encompasses:

- **a foundational course in international refugee law;**
- **advanced comparative and interdisciplinary policy seminars;**
- **a clinical program in U.S. asylum law;**
- **summer internships at leading refugee protection agencies both in the United States and abroad;**
- **a visiting scholars program;**
- **and a biennial colloquium, Challenges in International Refugee Law.**

Faculty 13, students 10

Sometimes, hard as it may be to believe, law students and faculty members squeeze out time for recreation (intellectually stimulating recreation, of course) during the academic year.

Sunday afternoon, October 22, was one of those times, and the occasion, in its own way, rivaled the rare "Subway Series" that pitted New York's Yankees against Gotham's Mets. The afternoon's activities also brought out the zest for sports reporting that veteran Clinical Professor Paul Reingold judiciously bans from his legal writing.

Here is Reingold's report, disguised as "From this week's *Sports Illustrated*," and distributed via the Law School's e-mail network.

"Forget the World Series:

"On Sunday, October 22, the U-M Law School faculty softball team hosted a team of law students at Burns Park. Behind the power pitching of Kathleen Clark (on loan from the St. Louis Cardinals), the faculty eked out a 13-10 victory.

"Shortstop John Loyd anchored the defense, while clean-up hitter David 'The Bomber' Baum hit two homers and a triple, accounting for most of the faculty runs.

"Adam 'Don't Put Me in the Outfield' Pritchard hit for the tricycle (three triples in three at-bats) and patrolled the power alley in left field. Tom Seymour, Jack Atkinson, and Howard Bromberg rounded out the outfield, while Baum, Paul Reingold, and Rich 'The Rabbit' Friedman provided error-free protection on the corners. Friedman pulled a quadricep muscle while flying around the bases, but persevered until the last inning, when he had to leave the game (to pick up his daughter at a birthday party).

"Starter, middle reliever, and closer Clark held off a late-inning student rally (back to back-to-back home runs) to preserve the win.

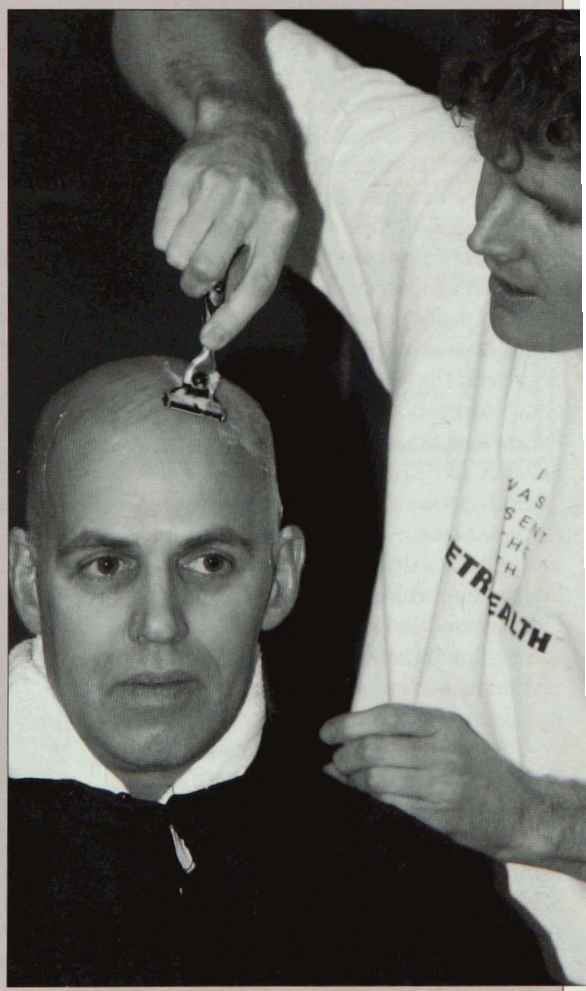
"For their part, the students displayed exemplary sportsmanship, providing the short-handed faculty squad with a catcher each inning and a third baseman during the last, due to Friedman's early departure.

"A good time was had by all."

Thanks to the Mets —

Alas, it all started with the Subway Series and Ralph W. Aigler Professor of Law Richard Friedman's love for the underdog. Friedman bet a head shaving on the Mets — and lost. Never one to ignore opportunity, however, he auctioned off swipes of the shearing to benefit Student Funded Fellowships, the program that provides stipends for students to take unfunded or underfunded summer work, usually with public service agencies. The shearing netted $615 for SFF. Students nearly filled Honigman Auditorium (Hutchins Hall room 100) for the occasion, but few chose to exercise their option and the careful Gillette Mach 3 work fell to doughty first-year student Sean Hartiga, shown here deftly working his way through Cheez-Whiz lather. (Yes, Cheez-Whiz, recommended by Friedman's chrome-domed appliance installer AND by a law student, served admirably as shaving cream de jour.*) "You know, if the Law School thing doesn't work out, Paul's got another job," Friedman gamely noted as law student Paul Hood began the project with barber clippers. "Could I get the clippers back?" fellow law student Jason Stuart joshed afterward. "I need them for the dog."*

PHOTO BY MARTIN VLOET,
UNIVERSITY OF MICHIGAN PHOTO SERVICES



SERVICE DAY LABORS YIELD BIG RESULTS

PHOTO BY THOMAS TREUTER

What a view. If you could only have seen the "before." Shalandra Jones' new front yard provides the perfect perspective of a transformed Detroit street, and these are the volunteers who made it happen as part of the Law School's fall Orientation Service Day.

Three busloads of first-year law students didn't allow the 90-degree temperatures or high humidity to deter them from their task. They had signed on to lay sod as their Orientation Service Day project, and lay sod they did.

The site, six homes in the northwest Detroit area known as Brightmoor, built through the efforts of the Northwest Detroit Neighborhood Development Inc. (NDND), has a special connection with the Law School. NDND is a client of the Law School's Legal Assistance for Urban Communities Clinic. (See story on page 22.) According to NDND's John O'Brien in his lunchtime remarks, the community organization couldn't have managed the tangle of red tape or contract negotiations without the clinic's legal expertise. To put it bluntly, the homes never would have been built.

Arriving at the work site, the student volunteers gathered around O'Brien while he explained that NDND has been working to reclaim the Brightmoor community for the last 10 years. In that time the agency has built 96 new homes; 50 in the last year. "Our goal is to completely rebuild the community in the next 10 years," O'Brien said.

Volunteers quickly divided into work groups, gathered gloves, wheelbarrows, shovels, and rakes, and got busy on yards full of weeds, rocks, and packed dirt. While the volunteers prepared the yards, another NDND worker unloaded flats of rolled sod and deposited them at each yard to be transformed.

And *transformed* is the right word. In three hours of incredibly hard work, six homes traded their weeds for emerald green sod carpets. The concentration of six properties on one street emphasized the fact that a rebirth is indeed taking place in an area that has for years struggled with blight and decay.

"I like the fact that we get to see results right away," Wendy Chi said as she took a brief break from fitting sod.

Shalandra Jones, resident of one of the homes receiving a new yard, couldn't get over how wonderful it was that the students were there. "My children will be able to play outside without getting so dirty now," she said. As everyone loaded onto the buses, she stood on her porch waving and calling out her thanks.

Lunch speakers included:

■ Katie Foley, University of Michigan senior who coordinates volunteers for NDND, described The Detroit Project, an organization that provides opportunities throughout the year for U-M students to do volunteer projects in Detroit.

■ NDND's O'Brien elaborated on the complexities of NDND's work.

■ Clinic Director Rochelle Lento and clinic staff member J. Taylor Teasdale represented the Legal Assistance to Urban Communities Clinic. They explained some of the practical behind-the-scenes activities the clinic handles as it provides legal and technical assistance to Detroit's community-based organizations.

Continuing a program of community service begun in 1993, more than 400 students participated in a total of six Service Day projects throughout the Ann Arbor and southeastern Michigan area. Projects in addition to the NDND "sod laying" included:

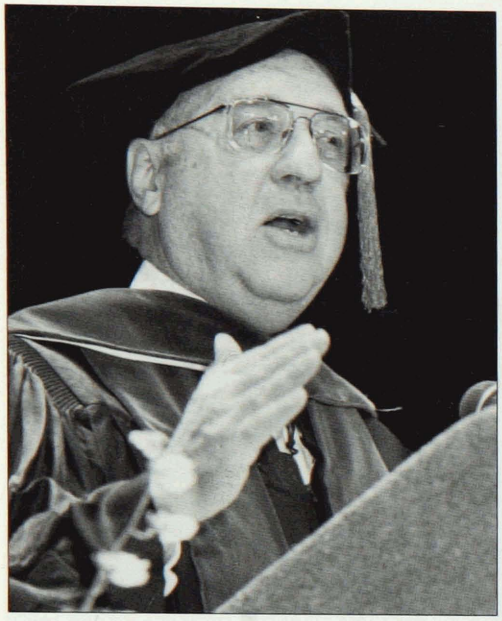
■ Students sorted and packed food boxes at Gleaners Community Food Bank in Detroit.

■ The Greening of Detroit project involved garden and park maintenance.

■ Safe House, an Ann Arbor shelter for battered women and their children, benefited from students helping with weeding, organizing, cleaning, and painting.

■ Students visiting Glacier Hills Retirement Community in Ann Arbor helped with grounds work and painting.

■ Student volunteers painted barns and did general maintenance projects at Dawn Farm, a long-term residential substance abuse treatment facility in Ypsilanti.



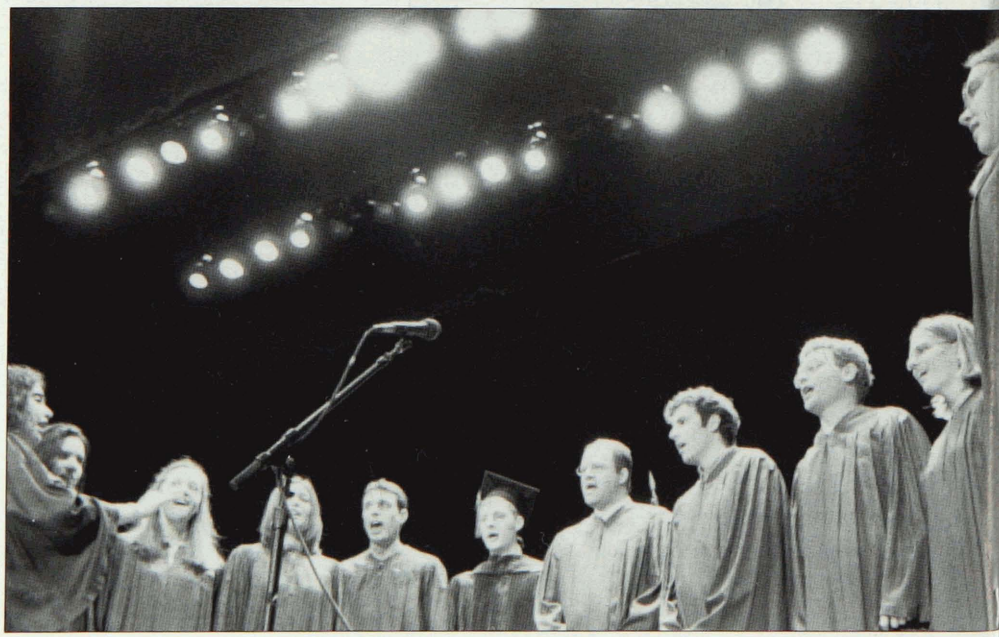
Senior Day

December 16, 2000

ABOVE: *Commencement speaker Alfred M. Butzbaugh, '68, immediate past president of the State Bar of Michigan, warns graduates that there is a "fissure" in the bedrock principle that "all people have equal access to our justice."*

ABOVE RIGHT: *Graduates gather in the lobby of the Michigan Theater for a group photo.*

RIGHT: *The Headnotes, the* a cappella *group made up of law students, sings for Senior Day. The group recently has issued its own CD recording.* *(See story on page 9.)*



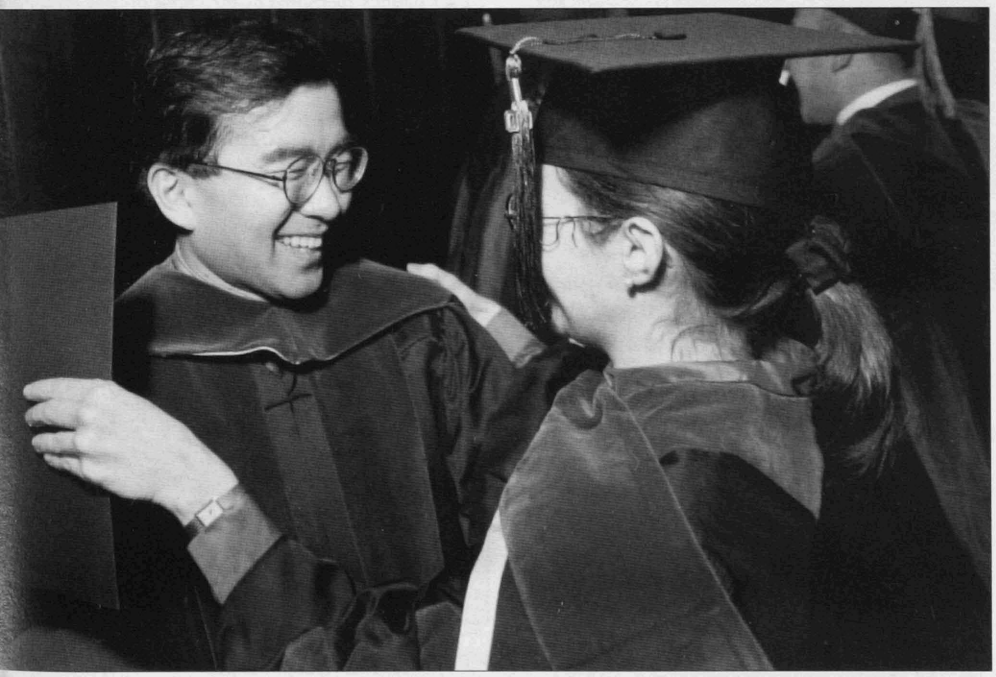
From ancient teachings to recent graduates, Senior Day in December was a day of lessons and examples. Commencement speakers Sherman Clark, a Law School professor, and Alfred M. Butzbaugh, '68, immediate past president of the State Bar of Michigan, challenged these graduating summer starters to learn and follow the best that has gone before them.

Butzbaugh, a long-time supporter of Access to Justice programs to provide legal help to people unable to pay for it, told graduates that public service opportunities are not restricted to fulltime public service careers. He cited as examples several Law School graduates — like Sheema Roy, '98, with Baker & McKenzie in Chicago, who helped a disabled student get a van so he could go to school; and Nelson Miller, '87, who spends two afternoons each week providing legal advice to people in his west Michigan county; or Lore Ann Rogers, '83, whose lawsuit opened an international service club to women; and Carl Bernstein, '64, of New York City, who retired from his firm last year but continued to practice by taking a death penalty case in Georgia.

These are the kinds of uses of lawyer's skills that are necessary if the public perception of lawyers and the legal profession is to be turned around, according to Butzbaugh, of Butzbaugh and Dewane PLC in St. Joseph, Michigan. "The bedrock of our legal system is that all people have equal access to our justice, but there is a fissure in the bedrock of that system," he said. Only a small percentage of poor people get the legal assistance they need, but "for every $1 the federal government puts into Medicaid it gives one-third of one cent to legal aid."

An ABA poll last year showed that nearly half of respondents consider the legal system unfair to poor people and minorities, Butzbaugh reported, and 90 percent of the respondents felt that affluent people and corporations have an unfair advantage when they go to court. "That is a devastating indictment of our legal system," he said.

Clark, reaching back to the ancient, didactic storytelling of the Talmud, noted that the new lawyers in front of him take on a new responsibility for the law along with their J.D. degrees. In one tale, Clark recounted the story of the rabbi whose questioners will not accept his interpretation. Even when the rabbi gets an answer from the heavens, one of his critics stands and exclaims, "It is not in heaven."



Graduates Mumon Akiyama and Susan Smith congratulate each other.

"The secular lesson we might take away today is not, as might first appear, in any sense a lack of respect for authority," Clark said. "It is rather that despite the deepest and most profound respect for authority, we can and must take responsibility for our law.

"Our legal system, our law, is deeply rooted in various forms of authority. We appeal to statutory sources, and to precedent. It is possible in light of this to lose track of our own agency in and responsibility for the law and its outcomes. What I mean is this: Before we joined this profession, before we 'took to the law,' as they used to say, it may have been possible for us to view the law — its interpretations and its injustices — as something imposed upon 'us' by 'them.' It was possible for us to complain righteously that that ever-vague and amorphous 'they' should fix the law, remedy its inequities, make right its injustices.

"Well, now it is we who are the 'they.' We have lost the right to look outside ourselves for answers to the dilemmas posed by the law. It is our law now. This does not mean that we in any way reject the authority of — in our case — democratically enacted statutes and common law interpretations, any more than the rabbis were rejecting the authority of heaven. It means, instead, that it is our job now to find ways of respecting our own forms of binding authority as we at the same time take full ownership of what is, like it or not, now our law, and as we take full responsibility for making our law what it needs to be."

Dean Jeffrey S. Lehman, '81, welcomed the graduates to the "vibrant and supportive worldwide community of more than 18,000 women and men" who have graduated from the Law School. This class, he said, is "the very best that the U-M Law School has to offer the world."

"You will be missed," Law School Student Senate President Brandon Marcellus Mack told the graduates.

Graduate Karl S. Nastrom, elected by his fellow graduates to address them, left listeners with questions, among them:

What story do you come back and tell in 5, 10, 20, or 25 years?

What will you have done to change the world?

Examining careers from the inside

Careers in criminal law is the topic of the day, with speakers, from left: David Moran, '91, a Wayne State University Law School professor who worked eight years with the State Appellate Defender Office; Jim Dietz, chief division counsel for the FBI's Detroit Division office; and Benjamin Liston, of the Macomb County Prosecutor's Office. The criminal law program was the third in a fall term series on career options sponsored by the Office of Career Services. Other programs dealt with careers with the federal government and in management consulting/investment banking.

"The work is interesting," Jim Dietz, chief division counsel for the FBI's Detroit Division, says of his career with the federal agency, first as an agent, now as an attorney.

"This is black letter law," Benjamin Liston says of his work as a prosecutor with the Macomb County Prosecutor's Office.

"That is among the most rewarding feelings I've ever had — walking these people out of prison," David Moran, '91, says of his work as a criminal defense appellate lawyer.

Three views of a legal career from the vantage point of experience — presented to Law School students as part of the Office of Career Services' three-part fall term series on career options. Dietz, Liston, and Moran spoke for the program on criminal law, the last in the series. Previous programs had addressed careers with the federal government and in the fields of management consulting/investment banking.

Dietz said he probably had more fun as an FBI agent, but his current work is more interesting. Among his duties, he instructs FBI agents and provides advice and counsel, monitors state legislation that can affect FBI operations, works with the U.S. attorney when the agency is sued, reviews forfeitures, and handles Freedom of Information Act requests.

Liston noted that up to 98 percent of the cases that come to his office are settled in plea bargains and only about one percent actually go to trial. He said he enjoys trying cases, and "having the action remedied in a court is a huge sense of satisfaction."

For Moran, who spent 8 years with the State Appellate Defenders Office before taking his current post teaching at Wayne State University Law School, "If you're committed to the idea that everyone should get his day in court, this is a great job." But, he warned, "you'll lose a lot."

Correction

It was printed incorrectly in the Fall 2000 issue that Vera Bolgár was instrumental in development of the *Michigan Journal of International Law*. Bolgár in fact was instrumental in development of the *American Journal of Comparative Law*, which was begun in 1952 at the University of Michigan Law School by Professor Hessel E. Yntema. *Law Quadrangle Notes* regrets the error.

The public service horizon — at home and abroad

Matching your talents and your values is "a very important form of compensation," according to Robert Precht, director of the Law School's Office of Public Service. A form of compensation that many people find in public service work, he says.

"Do all of you have a sense of what your talents are?" Precht asked as he outlined opportunities in the public service arena during a program in September. "What are your values?"

Precht explained that the Law School's recently revised debt management policy, "one of the top debt management programs in the country," offers graduates the opportunity to take lower paying public service jobs even if they have accumulated considerable debt in order to attend law school. In addition, the Student Funded Fellowships program offers law students the opportunity to receive compensation for unpaid public service work while they still are law students.

Precht shared the program with Carolyn Spencer, a counselor/attorney with the Law School's Office of Career Services and a specialist in government positions, and third-year law student Adam Wolf, who has worked with the ACLU in southern California and the NAACP Legal Defense Fund during his summers between classes.

There is "enormous job satisfaction" as well as autonomy and responsibility in government work, Spencer said. And the work is significant because it deals with making policy, making history, or working with people's real problems. "You have to recognize that the pay is not stellar, but you still can make a good living," she said.

Wolf outlined how he quickly found himself in the thick of a case involving the lack of advanced placement courses in poorer schools during his first summer with the ACLU in southern California. The ACLU office is headed by Mark Rosenbaum, a frequent visiting professor at the Law School.

During the summer between his second and third years of legal education, Wolf worked with the NAACP Legal Defense Fund in New York City. "From the first day there, I worked on a segregation case," he said. "It was a remarkable experience. I'd wake up every day and be excited about going to work. I'd go to bed thinking about what we'd do the next day."

"I think public interest work is a wonderful way to spend your career, and I want to invite you to join in it," Wolf said.

Later, in October, the Public Interest Group and the International Law Society sponsored a program on international public interest opportunities featuring students who discussed their experiences in a number of settings:

Evaluate your talents and your values, Robert Precht, director of the Law School's Office of Public Service, advises during a program on public service work.

■ Kate Semple Barta, a third-year law student, worked with the Jesuit Refugee Service in Zambia last summer, and during the summer of 1999 did refugee work with the Helsinki Committee in Budapest. She won a fellowship from the Law School's Refugee and Asylum Law program to do her work in Zambia; she located the position in Budapest through the University of Michigan's International Institute.

■ Kevin Kolber, also a 3L, used a Law School Bates Fellowship to work in India last summer. Through the Law School's ties to Cambodia, he worked in Cambodia during summer 1999 doing research on a trade agreement between the United States and Cambodia.

■ Jared Genser, 3L, did an externship with the AIRE Center, a human rights organization in London, England. "I was able to see human rights law in practice and see what it is like to be a human rights lawyer on a day-to-day basis," he said. He worked on the case of James Mawdsley, the human rights protester sentenced to 17 years in solitary confinement in Burma. (A joyful Genser reported the release of Mawdsley a few days later and flew off to London to greet Mawdsley. See story on page 60.)

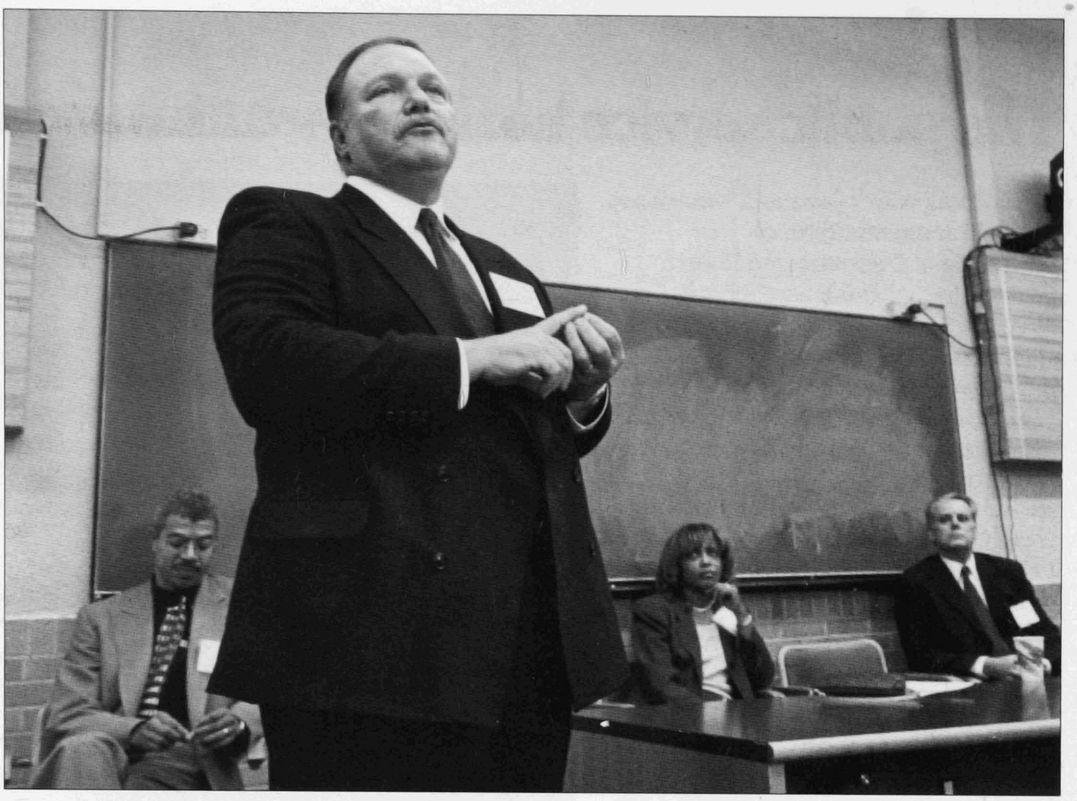
■ Second-year student Archana Pyati, who worked with a non-governmental organization in Cambodia last summer. "It was an eye-opener as to what sorts of things you want to do for the rest of your life," she said.

■ Catherine Koh, 2L, worked in Argentina last summer, first with the Supreme Court of Argentina, then with a private law firm in Buenos Aires. She was supported through a Latin American and European Studies Fellowship.

■ Marisa Goldstein, 2L, worked last summer with the Department of Defense in Washington, D.C. Goldstein wrote much of the treaty of nonproliferation between the United States and Uzbekistan, she said. Government work often is public service work, she added. "I think there's a lot of value in serving your own people."

Practice, practice, practice

paves road to state judgeships



Serving as a judge is "the most difficult job you can imagine," and you do it because it offers "an opportunity in your life to be of service to others," Washtenaw County Circuit Court Judge Donald Shelton, '68, explains during the program "Being A Lawyer Is Not Enough" at the Law School in October. Other panelists include: Judge Wade Harper McCree, Thirty-sixth District Court, Wayne County (left in background); Judge Susan Neilson, Third Circuit Court, Wayne County, Civil Division (not shown); Magistrate Irma Chenevert-Bragg, Thirty-sixth District Court, Detroit (center background); Judge Timothy M. Kenny, Third Circuit Court, Wayne County (right background); and the Hon. Marilyn J. Kelley, Michigan Supreme Court (not shown). The program was presented at the Law School as part of a Michigan State Bar Association effort to encourage law students to consider judicial careers and inform them of opportunities on the bench.

Being a state judge is a little like being a winged horse — a couple of breeds rolled into one. Or, as the Hon. Susan Neilson of the Wayne County Circuit Court put it: "If you want to be a judge in the state court system, sooner or later you have to run [for election]."

Maybe so, but most state judges come to the bench via appointment, then stay there via election as an incumbent, explained Washtenaw County Circuit Court Judge Donald Shelton, '68. Incumbent judges rarely are defeated because voters generally can't distinguish among judicial candidates so they vote for the current officeholder, Shelton said.

These and other viewpoints came out during a program at the Law School in October called "Being A Lawyer Is Not Enough." The program was sponsored by the Michigan State Bar's Professional Development and Opportunities Committee as part of its effort to encourage young people to consider judicial careers.

Women and minorities are underrepresented throughout the Michigan court system, explained committee chair Marcia Goffney, managing counsel for Dow Corning.

"This is the most difficult job you can imagine," reported Shelton, who has been on the bench for 11 years. "If you are looking for something easy to do, that pays good money and has good hours, this is not the thing for you.

"Sending someone to prison or making a decision that totally changes a person's life is not supposed to be easy. I told myself, if it ever gets easy, I'd quit."

You serve as a judge, Shelton said, because it's "an opportunity in your life to be of service to others."

"I love being a judge," said Wade Harper McCree, of the Thirty-sixth District Court in Detroit. "We deal with everyday common problems, but to the person in front of you it's the biggest thing there is."

Panelists agreed that Michigan's three-year-old law requiring that judicial candidates have practiced law for at least five years will improve the state judiciary. Since 1997, a candidate cannot become a Michigan judge until he has practiced law for at least five years. Panelists agreed that such experience improves the judiciary. As Michigan Supreme Court Justice Marilyn J. Kelley put it, "Getting out there and doing is a good way to start."

Kelley practiced for 17 years before running for a judicial seat. A blend of community involvement, bar activity, and political party activity provided "a good recipe for me" to get to the bench, she said.

Other panelists included Magistrate Irma Chenevert-Bragg of the Thirty-sixth District Court in Detroit and Judge Timothy M. Kenny of the Third Circuit Court in Wayne County.

Following the 'cutting edge' around the world

Each term, regular attendees at the International Law Workshop lectures come away with insights into the crosscurrents of global lawmaking that only can be provided by the actors themselves or learned students of those actors' activities.

Despite the expertise of each session's main speaker, these are not one-sided programs of *dicta* from the lectern. Each program includes comment — sometimes quite critical comment — on the speaker's position, as well as penetrating questions from students and faculty in the audience.

In one program, for example, Affiliated Overseas Faculty member Christopher McCrudden, human rights professor at Oxford University, outlined "The European Union's New Human Rights Charter" and noted the need for the charter because there is "no one place where all the rights are set out in a coherent form." However, responded James Hathaway, a law professor and director of the Law School's Refugee Law Program, "What's driving this? I think we go back to the economization of human rights. The project looks an awful lot to me like WTO's attempt to set up its own human rights monitoring system."

"Why now?" a questioner then asked about the European Union's effort. "Enlargement is an issue," McCrudden answered. "A unanimous vote is needed. If five new states come in then you need their votes. So now it [the EU's human rights charter] can be embedded and entrenched by a smaller number of countries."

The weekly talks, organized during the fall term by Professors Hathaway, Daniel Halberstam, and Robert Howse, and Assistant Dean Virginia Gordan, are designed to generate just this type of critical exchange. Each program also is available on videotape through the Law School's Center for International and Comparative Law.

Affiliated Overseas Faculty member Bruno Simma, of the University of Munich and a member of the UN's International Law Commission, outlines the commission's proposed human rights charter.

Here are other programs in the fall term series:

■ Traditionally, human rights has embraced civil and political rights, and "only recently have economic and social rights been part of human rights," Ernst-Ulrich Petersmann, University of Geneva professor of European law, explained in his talk "Human Rights and the World Trade Organizaton." "Most international lawyers don't see any linkage between international economic law and human rights." WTO rule-making and other procedures "should be more open, not behind closed doors," and "national legislatures should be involved at the front end, not just at the final ratification," Petersmann said. "I think it is extremely important to have deliberative democracy in the WTO," he said, and "we the citizens should be treated as legal subjects of WTO." In his response, Affiliated Overseas Faculty member Bruno Simma noted his discomfort with "the economization of human rights" and recounted how what the founders of the

Continued on page 20

BRIEFS

Continued from page 19

UN considered to be human rights is different from what the WTO considers to be human rights.

■ International law originated between governments, and still is made by governments, but has expanded to affect individuals' human rights, labor standards, and other activities, according to Eyal Benvenisti, professor at the Hebrew University of Jerusalem's Faculty of Law. "Why do we trust the government? Domestically, we don't trust the government — we have checks and balances — so why should we trust the government internationally? It apparently is because the government speaks for the nation, but the fact of the matter is that this position is not warranted." Treaty-making usually occurs out of public view, so "it is harder to change a treaty than to change domestic law," Benvenisti said. "The rules concerning treaties provide significant advantages for smaller groups at the expense of the larger groups."

■ International law in recent decades has come to recognize that "legal obligation is said to exist in public interest," Simma explained during his International Law Workshop lecture in October. A member of the UN's International Law Commission, which is charged with codifying international law, Simma noted that state responsibility, the last main issue before the commission, "almost cuts across all of international law." Traditionally, international law was "bilateral" law between two nations. But in recent decades a sense of "community interest" has emerged to take in human rights, international trade, the environment, and other issues. Simma is a member of the law faculty at the University of Munich.

■ "Fiji, Coups, and the Rule of Law" was the topic for Queen's Counsel Rodger Haines, deputy chair of the Refugee Status Appeals Authority of New Zealand and a lecturer at Auckland University Faculty of Law. Coups in Fiji — two in the late 1980s and a third last May — have bred new constitutions — the second in 1990, 20 years after independence, a third in 1997 — but few Fijians understand what their constitution provides, Haines said. In contrast to national identity throughout the Pacific, "there is a retreat to a village identity" in Fiji. For the working Fijian, "there was a complete failure of the rule of law," he said.

■ For Chantal Thomas, a Fordham Law School professor and world trade expert, the U.S. Constitution offers only the barest of guidelines for dealing with the "substantive expansion" of world trade that has "moved into everyday questions of setting norms" for financial services, intellectual property, and other fields. Traditionally, international trade dealt with tariffs, but since World War II there has been a major expansion in international trade law and during the 1990s members of GATT turned to non-tariff areas like health and safety issues. The "fast track" that gives Congress an "up or down vote" on trade pacts negotiated by the executive branch came about because of the difficulty of matching Article I's congressional power to regulate foreign commerce and Article II's presidential/senatorial treaty powers with the realities of modern world trade. This and other changes have placed "too much emphasis on expediency [and] too little emphasis on transparency," Thomas said.

■ Drawing parallels with cases of domestic violence, University of Alberta Faculty of Law Professor Annalise Acorn, a visiting professor at the Law School, expressed skepticism toward the worth of apology and forgiveness in the public arena. "Institutions are especially good at bogus apologies that fudge the question of authority," she told the International Law Workshop in November. Apology in both cases can be used "as a tool to maintain and manage an abusive situation, and not a tool leading to any kind of meaningful change," she said in a talk called "Forgiveness, Apology, and Conflict of the Past: The South African Truth Commission and Beyond." You can't expect meaningful apology from an institution unless the institution itself admits wrong, she said. With that in mind, perhaps South Africa's Truth and Reconciliation Commission is eliciting meaningful apologies because apologies there come from "the people who actually perpetrated the deed."

■ The growing international matrix of commerce and trade makes it appropriate to have international guidelines for business, David Weissbrodt, a professor at the University of Minnesota Law School, told the International Law Workshop in November in the concluding lecture of the fall term series. Among the issues for consideration are: To what extent can international law and UN guidelines apply to businesses? Should guidelines apply only to transnational businesses, or to all companies? Is it appropriate for the UN to develop guidelines that reflect social accountability? How much should corporations be considered responsible for the conduct of their agents? Should guidelines be binding or voluntary? What subjects should guidelines cover? How can guidelines be implemented?

Exercising academic and intellectual freedoms

"THE PROTECTION OF ACADEMIC AND INTELLECTUAL FREEDOMS REQUIRES A CONSTANT REMINDER OF THEIR VALUE AND VULNERABILITY. TO PROVIDE FOR THAT REMINDER, THE FACULTY OF THE UNIVERSITY OF MICHIGAN HEREBY RESOLVES TO ESTABLISH AN ANNUAL SENATE LECTURE ON ACADEMIC AND INTELLECTUAL FREEDOM. . ."

— UNIVERSITY OF MICHIGAN SENATE ASSEMBLY RESOLUTION

It's no surprise to find the Law School intimately involved in the celebration of the annual Davis, Markert, Nickerson lectures, just as it has been involved since the beginning of the lecture series a decade ago. The series celebrates academic freedom and the free speech that lies at its core. It is named for H. Chandler Davis, Clement L. Markert, and Mark Nickerson, the three University of Michigan faculty members who were forced to leave the University after they refused to testify in 1954 to a congressional committee investigating the communist threat to the United States.

The role of the law in such issues is profound, and three of the first 10 speakers in the series have close association with the Law School:

■ Then-U-M Law School Dean Lee C. Bollinger, now president of the University of Michigan, who delivered the series' second lecture, in 1992.

■ The Hon. Avern Cohn, '49, of the U.S. District Court for the Eastern District of Michigan, delivered the sixth lecture in the series, in 1996.

■ And Roger W. Wilkins, '56, the Clarence J. Robinson Professor of History and American Culture at George Mason University, delivered the series' seventh lecture, in 1997.

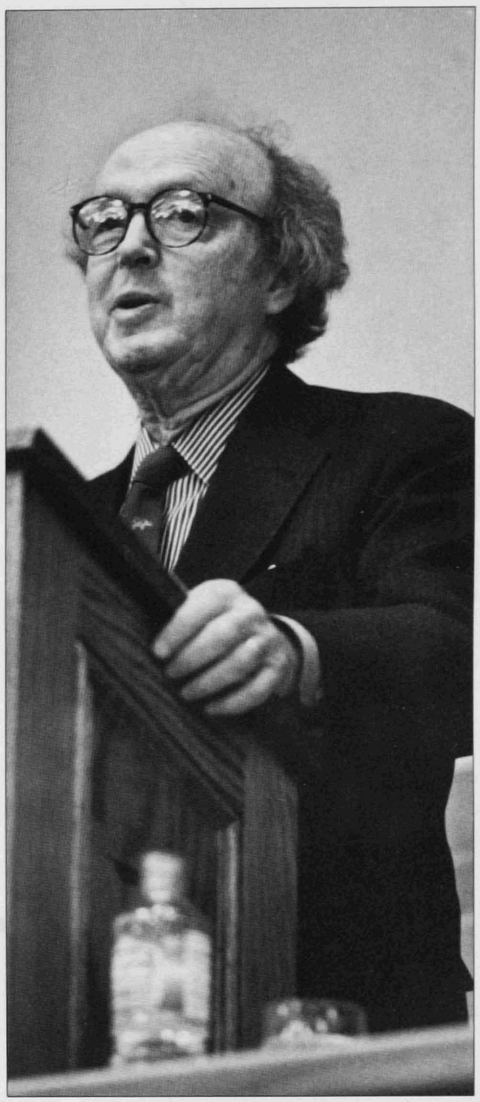
The lecture series marked its 10th anniversary in October with a special symposium held at the Law School. From the opening keynote speech by *New York Times* Pulitzer Prize-winning columnist Anthony Lewis to the final panel discussion — "Constructive Dialogs on Thorny Issues" — participants wrestled with the role of free speech and academic freedom in our increasingly complex, often contentious world.

Freedom of speech is fragile, Lewis said, and there are plenty of examples of its abridgement during the 20th century — for pacifists during World War I, for anarchists, communists, and syndicalists during World War II, and during the "Red Scare" of the 1950s. Presidential candidate Eugene Debs ran for president from jail in 1920 because he had been convicted under the Espionage Act for expressing sympathy for three men who had resisted the draft, Lewis noted.

Indeed, we live in a "time of broad toleration" today, University of Michigan President Lee C. Bollinger said in his remarks for the celebration. Debs' conviction and imprisonment, and his subsequent presidential race from behind bars, would be "unthinkable" today, Bollinger said.

"Freedom of speech as we know it today does not have the stamp of the ages. . . . It really is an invention of the 20th century . . . and that in itself ought to give us pause."

Earlier free speech opponents tended to be from the right side of the political spectrum, but many of the more recent attacks, like university speech codes, have come from liberals on the left. The lecture series reminds everyone that "you must be continually alert to new forms of censorship and oppression toward open thought," Bollinger said.



New York Times *columnist Anthony Lewis delivers the keynote address in October to launch the 10th anniversary celebration of the annual Davis, Markert, Nickerson Symposium Lecture on Academic and Intellectual Freedom. He was introduced by James E. and Sarah A. Degan Professor Emeritus Theodore J. St. Antoine, '54, secretary of the Academic Freedom Lecture Fund.*

Legal Assistance for Urban Communities —

10 years and counting

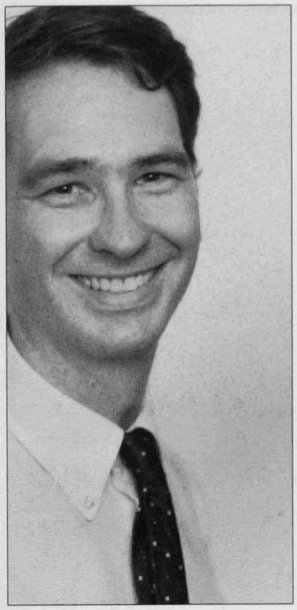
Just imagine. You're a community organizer with an undersized budget and an overwhelming list of needs. And getting through that list means making your way through a maze of federal, state, local, and even neighborhood red tape. You may have to negotiate contracts with government agencies and private builders. Or make the rounds of public meetings that pave the way for things like zoning changes and building projects.

For a decade, community-based groups in Detroit have been turning to the Law School's Legal Assistance for Urban Communities Clinic (LAUC), which provides all these and other services while offering its students a precious taste of legal practice that brings life to their classroom discussions and satisfaction to their contributions.

The idea for the clinic began with Dean Jeffrey S. Lehman, '81, who envisioned it as a way to bring the University "directly into the center of a complex social problem" by providing the "scarce, sophisticated, and expensive legal 'technology'" that community-based organizations need to battle urban blight.

In the spirit of its goals, the Law School's Legal Assistance for Urban Communities Clinic makes its headquarters in this refurbished historical building at 8109 East Jefferson in Detroit.

Matt Weber



Legal Assistance for Urban Communities Director Rochelle Lento

Explain Lehman and Clinic Director Rochelle Lento, who has headed LAUC since it began: "We wanted to find a way for the University in general, and the Law School in particular, to be constructive participants in the process of community transformation and redevelopment. And we thought the key might lie in the School's ability to award academic credit to students who are educated in the process of providing services at no charge to community-based organizations."

That key unlocks a great deal. Basically, LAUC teaches law students while helping community groups develop housing for Detroiters, usually low-income Detroiters. Along the way, community group members learn the ropes of dealing with government agencies and contractors. Law students learn the nuts and bolts of community-based development and get to practice what their in-class professors preach. It's been a win-win partnership.

Teresa Gueyser

Take, for example, the case of Brush Park Development Corporation and its development group partners. Their efforts on one project are expected to lead to the opening this summer of a $9 million, 113-unit L-shaped housing structure for low-income senior citizens. The project occupies a 12-acre site in one of Detroit's designated historic areas, where many of the late 19th century homes had deteriorated into neglected shells of their former glory and some had been abandoned for 20 years or more.

Easy to move in and clear, right?

Wrong.

Historic designation may be appealing, but it also poses substantial legal hurdles. "In order to tear anything down you have to get permission. You have to put out a bid, have to find out if anyone is interested in restoring it," explains Patricia Holmes Douglas, Brush Park's executive director.

Detroit in fact is a city of tangled titles, and "when it comes to property acquisition, actually getting property into our control can be a nightmare," Douglas notes.

Law School students, she says, provided "an immeasurable amount of support. . . . They do a lot of behind the scenes legwork that alleviates lots of the problems we have to go through on a daily basis. They have a better knowledge of what to look for, what questions to ask, and when it comes to the title, getting it and reviewing it."

Continued on page 24

Continued from page 23

Brush Park, teaming with another group called Crosswinds, also is working to rehabilitate into condominiums at least 10 homes in the area, which is across the Fisher Freeway from Comerica Park, the Detroit Tigers' new home field. (LAUC also is working with a community development group in the Corktown area, home of the recently abandoned Tiger Stadium.)

In the win-win spirit of LAUC, law student Markeisha J. Miner has found her work with Brush Park to be "very rewarding and satisfying." She has reviewed project agreements, assisted in revision of the group's neighborhood development plan, attended bid meetings to select contractors, and helped to plan a future assisted living development.

"I appreciate the practical learning that clinic work involves, particularly the ability to apply what I've learned in the classroom while I'm still in law school, as opposed to waiting until my summer internships or after graduation," Miner says.

"For example, in property class first year, zoning was a very important topic and we only casually referred to title insurance. Now, however, zoning and title work are such integral components of the work we do for our clients in the clinic that I've found the clinic gives me a much better perspective. And it reinforces the importance of these issues in a way that could not be achieved in the classroom setting alone."

"I've grown up driving through and living near Brush Park," she adds. "I've also worked just a few miles away, at the Museum of African American History, and worked out at the Brewster-Wheeler Community Center in Brush Park. It's amazing to see both where the community has been and where it is going."

Crosstown in Corktown, the Tigers' former home base and the site of professional baseball for nearly all of the 20th century, other LAUC students are working with the community-based Corktown Consumer Housing Cooperative (CCHC), which has been providing affordable housing to residents for decades. "An incredible experience," student R. Teig Whaley-Smith reports. "Working with such a dedicated group gives me renewed faith that Detroit is headed in the right direction."

COURTESY OF FUSCO, SHAFFER & PAPPAS INC. ARCHITECTS AND PLANNERS

This artist's rendition shows the L-shaped, 113-unit housing development that Brush Park Senior Housing Development Corporation will open in Detroit this summer. Students from the Law School's Legal Assistance for Urban Communities Clinic (LAUC) have been instrumental in providing the legal expertise and legwork that has brought the project to fruition. This year LAUC celebrates 10 years of working with community-based organizations like Brush Park as a training ground for Law School students and a source of energy and legal knowledge to help community-based groups accomplish their goals.

Whaley-Smith and his clinic partner, law student Jamie Patrick Raulerson, have been working with Corktown to develop a duplex for low- to moderate-income families. They have negotiated with Detroit to change the development agreement to satisfy a lender, drafted warranty deeds and purchase agreements, reviewed contracts, and studied how Corktown's tax-exempt status might be affected if it joined hands with a for-profit organization to re-develop some high-visibility properties.

"The IRS uses a complex set of rules and standards to assess whether such alliances further the nonprofit's charitable purpose or unduly benefit the private developer," Raulerson explains. "We ultimately advised CCHC to limit its involvement in order not to risk losing its status as a tax-exempt 501 (c)(3) organization."

"The development process is complicated, and working through the pitfalls with an experienced organization has helped me understand how to mediate the inevitable roadblocks to developing affordable housing," adds Whaley-Smith. "The clinic supervisors don't just give us the 'menial labor' assignments. Instead, they let us take on the challenging issues that developers face. Furthermore, we are given the responsibility of meeting with clients face-to-face."

They also meet face-to-face with clinic faculty, with people's schedules and clinic record-keeping kept on track by LAUC's administrative assistant, Marilyn Genoa. Once a week, the 20 students enrolled in the clinic meet with the clinic's faculty supervisors, Lento, Teresa Gueyser, and Matt Weber. With about 30 client organizations on the clinic roster, there is plenty to discuss.

"The experience of the clinical professors is amazing," says Whaley-Smith. "Throughout the semester, they have laid out what problems we are likely to face while working for community developers, and have given us the lowdown on how to attack those problems. I've never had a question that they were not able to answer. And I ask a lot of questions."

Launched during the 1990-91 school year, the clinic and its work have drawn notice and praise from throughout the nation. By the mid-1990s, an external review committee ranked LAUC as "among the best clinic law school programs nationally in affordable housing and community economic development." The clinic, the committee said, is "an impressive pedagogical and public service initiative."

Lento's role also has been recognized. She is editor-in-chief of the American Bar Association's *Journal on Affordable Housing and Community Development Law* and a member of the governing board of the ABA's Forum on Affordable Housing and Community Development Law. During 1999-2000 she was part of the select group named to the Detroit Chamber of Commerce's Leadership Class.

"Having the benefit of being with LAUC since its inception, I have had the gratifying opportunity to witness the growth of the clinic," Lento says. "LAUC has become a critical tool as legal advisor to Detroit nonprofit developers. Over the 10 years, LAUC has been integrally involved in incorporating and obtaining federal tax exemption for dozens of nonprofit corporations, and has assisted in the development of more than 350 units of affordable rental housing and 50 units of new single family homes.

"Michigan law students have guided that development process, enhancing their own legal skills and expertise while providing a valuable community service. This has been a mutually rewarding experience for the nonprofits and the law students involved."

LAUC plans to host its 10th Year Anniversary Celebration in Detroit in August.

"We wanted to find a way for the University in general, and the Law School in particular, to be constructive participants in the process of community transformation and redevelopment. And we thought the key might lie in the School's ability to award academic credit to students who are educated in the process of providing services at no charge to community-based organizations."

— DEAN JEFFREY S. LEHMAN, '81, AND CLINIC DIRECTOR ROCHELLE LENTO

26 Searching out *The Mystery of Courage*

26 Un-blurring the borders between judicial and policy debate

28 Professorships honor distinguished faculty

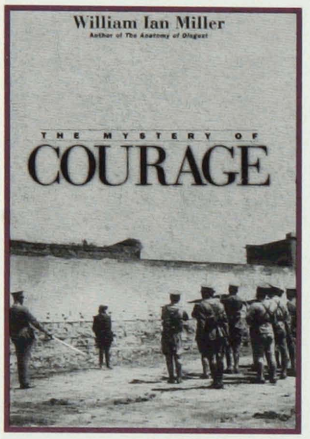
29 Activities

31 Howse named advisor to *European Journal of International Law*

32 Law School benefits from visiting, adjunct faculty

34 Law School contributes to success of AALS' annual meeting

Searching out *The Mystery of Courage*



The Mystery of Courage (Harvard University Press, 2000), Thomas A. Long Professor of Law William Ian Miller confesses, is something he came to through cowardice:

"My original intention was to focus on cowardice, especially the petty cowardices of daily life, those occasions on which we try to satisfy ourselves that it was our politeness and tact that kept us silent in the face of offensiveness rather than our fear of making an enemy or a scene. . . .

"I thought such a book would fit rather nicely in a misanthropic series preceded by my writings on humiliation and disgust. Of course I would have had to discuss courage, but as an absence, as a glorious and admonishing phantom whose chief effect was to render us miserable by our inability to measure up. . . . But courage could not be so rudely constrained. It laid siege to my initial intentions and succeeded in breaching them with ease. No wonder cowardice gave way; that's what cowardice always does."

As a practical matter, Miller plumbs mostly the accounts and journals of soldiers because they "feel obliged more than most to try to come to terms with courage." He writes this, his newest book, for one of those soldiers: "For my father, Norman Miller, who fought in the Pacific, 1943-45."

Cowards can be heroes, and heroes cowards, Miller finds. One person's courage may be another's cowardice. A courageous person at one time may be a coward at another. There are courageous cowards and cowardly heroes. Peer pressure can forge a hero or a coward.

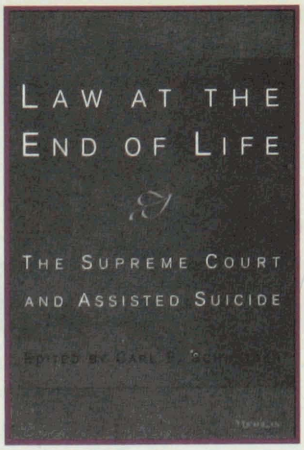
Tracking the mystery of courage as Miller does is like exploring an immense river whose source is its countless tributaries. Chapters are like landmarks, with titles like "Atistodemus, or Cowardice Redeemed," "'I Have a Wife and Pigs,'" "Shoot the Stragglers and the Problem of Retreat," "Offense, Defense and Rescue" (an excerpt from this chapter begins on page 64), "Man the Chicken," "Praised Be Rashness," and "Moral Courage and Civility."

In the end, Miller decides, "Those ignorant of danger, whether because of stupidity, insensibility, or madness, are not courageous. One must appreciate the danger at stake, even if that appreciation does not prompt fear. And then courage is too valuable to grant it to everyone who succeeds at a task that it took some marshaling of will to do. There must be danger and hardship to overcome, real danger and hardship, publicly discernible, properly appreciated."

Un-blurring the borders between judicial and policy debate

The assisted suicide issue illustrates how blurry the lines can become between policy making and adjudication. For example, the U.S. Supreme Court's decision in *Washington v. Glucksberg* in 1997 — that statutes prohibiting physicians from assisting in suicides may be constitutional — has quelled litigation but only quieted the moral, ethical, and policy debate over assisted suicide.

In *Law at the End of Life: The Supreme Court and Assisted Suicide* (University of Michigan Press, 2000), editor Carl E. Schneider, '79, and eight fellow writers provide material for what Schneider calls "a discourse that makes sophisticated explanation and criticism of judicial opinions available to the public that is



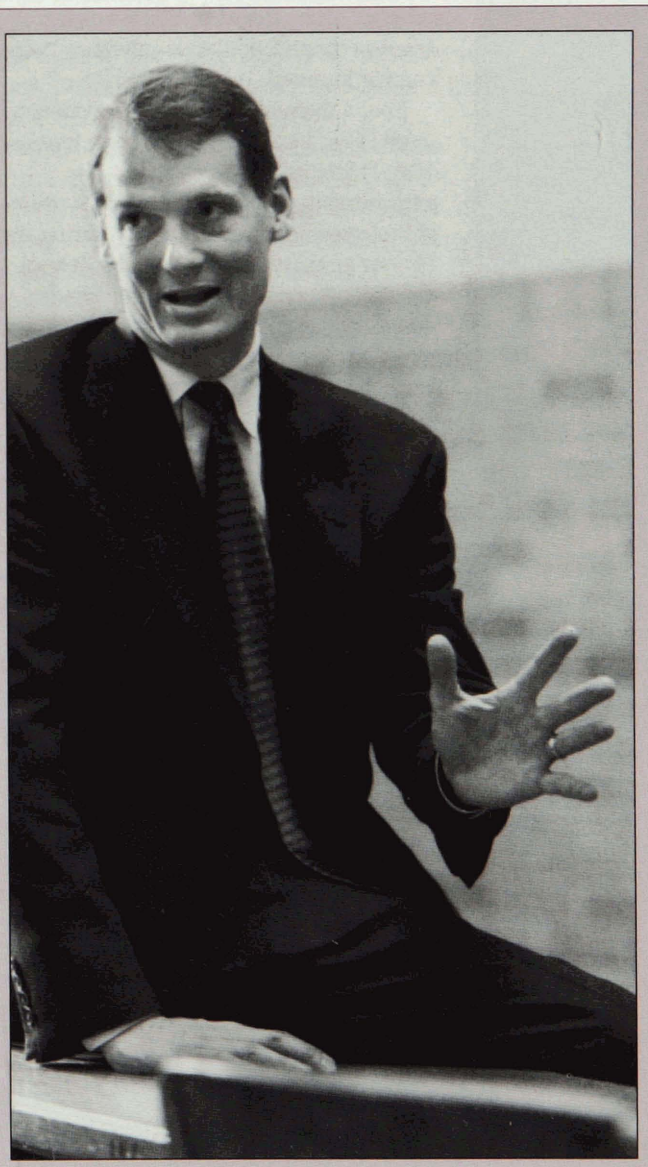
concerned with the political questions that have become confided to courts." The book's essays compile talks delivered at a conference at the Law School in 1997 shortly after the *Glucksberg* decision was handed down. The conference undertook four tasks:

- Ask what the Supreme Court's opinion in *Glucksberg* means as a judicial decision that is part of a continuing political process.
- Criticize the opinion as a piece of political analysis, social document, and set of principles for the practice of medicine.
- Reflect on the principles that should animate legal thinking about assisted suicide.
- Discuss the way institutional authority to decide questions of public policy should be allocated among and wielded by government institutions.

Writes Schneider, the Chauncey Stillman Professor of Ethics, Morality, and the Practice of Law, and also a professor of internal medicine: "Over a century and a half ago, Alexis de Tocqueville famously said, 'Scarcely any political question arises in the United States that is not resolved, sooner or later, into a judicial question.' Physician-assisted suicide superbly illustrates Tocqueville's acute observation. For a number of years, assisted suicide was the prototype of a (nonpartisan) political question. Interest groups brought it to public attention. Public discussion of it flourished. Legislatures debated it. Citizens in several states decided in referenda whether to make it legal. Almost suddenly, however, this classic political process was transformed into a judicial one by the startling and strongly stated opinions of the Second and Ninth Circuit Courts of Appeals. These opinions bid fair to take the power of decision away from political institutions by finding in the constitutional right of privacy an entitlement to the help of a physician in committing suicide. Now, in a case called *Washington v. Glucksberg* (and of course, its companion case, *Vacco v. Quill*), the Supreme Court has reversed the decisions of the Second and Ninth Circuits."

Schneider continues later in his introduction: "When a political issue becomes a judicial one, public interest in it does not end, of course. What is more, political activity surrounding it rarely ends either. Interested people may hope to change the judicial result. Sometimes they proceed judicially by trying to persuade the court either to overrule itself expressly or to erode its precedent by reinterpreting it. Sometimes they try to find room in the judicial decision for legislative and social countermeasures. This often means that the political and the judicial become so much intertwined that any person interested in a social policy must understand the judicial approach to it."

In addition to Schneider, three other Law School faculty members have essays in the book: Yale Kamisar, the Clarence Darrow Distinguished University Professor of Law; Assistant Professor Peter Hammer, '89; and Christopher McCrudden, professor of human rights law at Oxford University and an Affiliated Overseas Faculty member at the Law School.



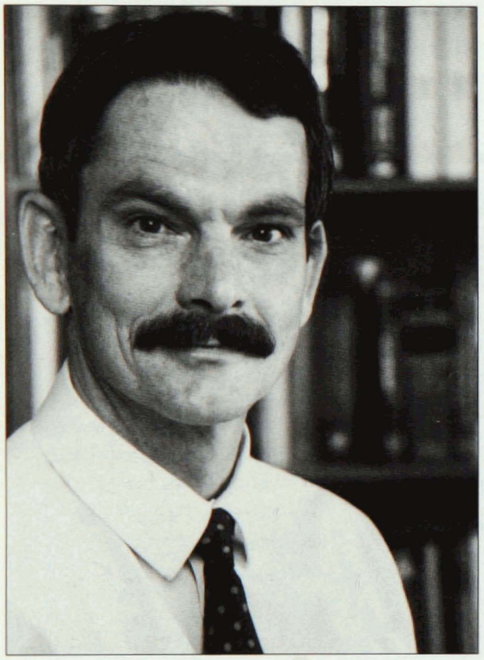
'Clear Rule' —

Professor Ronald J. Mann describes his argument in U.S. *v.* Webster L. Hubbell *before the U.S. Supreme Court last year. The case grew out of the Special Prosecutor's effort to prosecute Hubbell on the basis of information gleaned from information he had been forced to reveal. The Supreme Court, whose previous opinions on this issue had failed to erase uncertainty, ruled against the government last June and thereby provided a "clear rule" on the question, Mann said in a program held at the Law School in November.*

Professorships honor distinguished faculty

Two members of the Law School faculty, Professors Mathias W. Reimann, LL.M. '83, and Merritt B. Fox, have been appointed to endowed professorships.

Reimann, a leading scholar of comparative law and a member of the Law School faculty since 1985, has been named



Mathias W. Reimann, LL.M. '83

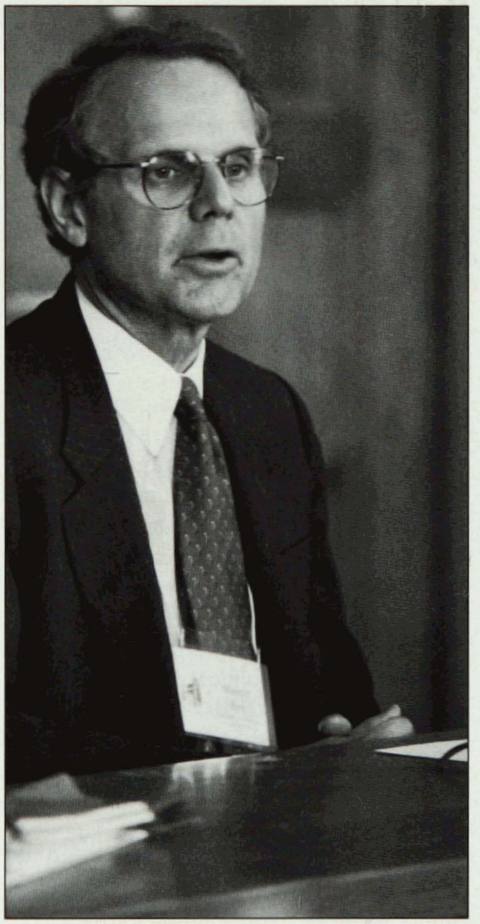
the Hessel E. Yntema Professor of Law. Established in 1976, the professorship is named after one of the pioneers in the study of comparative law. Yntema served on the Law School faculty from 1933-61.

A frequent contributor to U.S. and German journals, Reimann began his legal work in Germany and received his Doctor *iuris utriusque* from the University of Freiburg *summa cum laude*. He has been a visiting professor at the universities of Münster, Freiburg, and Frankfurt in Germany, and at the University of Paris I. He also was Professor of Private Law, Legal History and Comparative Law at the University of Trier from 1996-99.

Co-editor of *The Reception of Continental Ideas in the Common Law World 1820-1920* and author of *Conflict of Laws in Western Europe: A Guide through the Jungle*, Reimann has done research at the European University Institute in Florence and received the L. Hart Wright Outstanding Teaching Award for 1993-94; the award is based on a student vote. Reimann also is a member of the Board of Editors of the *American Journal of Comparative Law*, which Yntema founded.

Fox, a member of the Law School faculty since 1988, has been named the Alene and Allan F. Smith Professor of Law. The professorship recognizes the contributions of Professor Smith and his wife during their 35-year association with the Law School and the University of Michigan. Smith joined the Law School faculty in 1947, served as dean from 1960-65, then served as the University's vice president for academic affairs from 1965-74 and as interim president in 1979. The Law School's underground library addition also is named for Alene and Allan Smith.

A scholar of corporate and securities law and international private law, Fox is director of the Law School's Center for International and Comparative Law and co-director for corporate governance studies at the William Davidson Institute at the University of Michigan Business School. Fox earned his bachelor's degree, J.D., and Ph.D. in economics from Yale and worked in private practice in New York, where he specialized in corporate and securities law. He taught at Indiana University School of Law before coming to Michigan.



Merritt B. Fox

activities

Professor **Reuven Avi-Yonah** is an advisor to the U.S. Congress Joint Committee on Taxation, Federal Income Tax Simplification Project. He lectured on U.S. international taxation at the University of Hasifa Law School in Israel in December and at ITAM in Mexico City in October. In November, he served as commentator for papers on international taxation presented at the National Tax Association's annual conference in Santa Fe and on papers presented at the conference "International Tax Policy in the New Millennium" at Brooklyn Law School.

Professor **Evan Caminker** last spring participated in a panel on "The Supreme Court and Public Choice" as part of the annual Law and Society Association Conference. He recently returned from leave from the Law School to serve as deputy assistant attorney general in the Office of Legal Counsel, U.S. Department of Justice.

Assistant Clinical Professor **Kenneth Chestek** was course planner and principal speaker for the "Law of Reassessment" seminar in Erie, Pennsylvania, in November; he discussed the Pennsylvania law that governs county-wide reassessments.

Professor **Steven Croley** presented his paper "Public Interested Regulation" at the University of California-Berkeley, Boalt Hall, and Northwestern University School of Law in October. In September he delivered opening remarks and served as moderator for a panel discussion on Michigan's Open Meetings Act for the Administrative Law Section of the State Bar of Michigan's annual meeting.

Kirkland and Ellis Professor of Law **Phoebe Ellsworth** delivered the keynote address, "Interpretation and Emotion," at the Society for Experimental Social Psychology annual meeting in October in Atlanta.

Assistant Professor **Daniel Halberstam** delivered the paper "A Comparative Examination of the 'One-Voice' Doctrine" at the conference "Federalism and Foreign Affairs, New Voices on the New Federalism" at Villanova University School of Law in October.

Assistant Professor **Peter J. Hammer**, '89, spoke on "Health Care Quality, Antitrust, and the Federal Courts" at the Sixth Annual Health Care Antitrust Forum at Northwestern University School of Law in November. The same month he discussed "How Antitrust Courts Have Addressed Quality and Non-Price Concerns in Health Care Cases" in a program for the Federal Trade Commission and Department of Justice Antitrust Health Care Task Force in Washington, D.C., and was a member of the panel on "The Role of Pharmaceutical Companies in Providing Affordable AIDS Medications to Those in Need in Africa" as part of the Net Impact Faculty Case Competition at the University of Michigan Business School. In October, he was a member of the plenary session panel on "Competition in the Health Care Market" at the annual meeting of the Robert Wood Johnson Foundation Investigator Awards Program in Health Policy Research in Annapolis, Maryland. In June, he spoke on "Developing a Competition Policy: Judicial Treatment of Non-Price Competition in Antitrust Cases" at the American Society of Law, Medicine, and Ethics' Health Law Teacher's Conference at Case Western Reserve University School of Law in Cleveland.

Professor **James C. Hathaway** addressed the biennial meeting of the International Association of Refugee Law Judges in Bern, Switzerland, in October, speaking on "The Internal Protection Alternative: A New Paradigm." In September, he delivered the paper "The Challenge of Justifying Migration Control" at a symposium in Ottawa to celebration the 125th anniversary of the Supreme Court of Canada.

Professor **Robert L. Howse** is co-translator and principal author of the introductory essay for the notes and translation of (Alexandre Kojeve) *Outline of a Phenomenology of Right* (Rowan and Littlefield, 2000). In December, Howse was a panelist on trade, environment, and NGOs for the 8th Global Arbitration Forum, "Settling Disputes on a Shrinking Planet," in Geneva, Switzerland. In November, he was a panel member on the subject of globalization, labor rights, and the university for the Crossing Borders conference at the University of Michigan, and presented a work he co-authored on WTO law and labor rights at the WAGENET conference in

Madison, Wisconsin. In October, he addressed the UN Committee on Economic, Social, and Cultural Rights, UN human rights officials, and NGO representatives on the WTO and human rights as part of the Policy Seminar on Globalization and Human Rights in Montreal. In September, he discussed research on the WTO and deliberative democracy at the McArthur Colloquium on "Globalization, International Institutions, and Deliberative Democracy" at the Institute of International Studies at Sanford University, served as commentator for a panel on Seattle and the Future of WTO Negotiations at the Robert Hudec *festschrift* conference at the University of Minnesota, and served as a panelist in discussion of globalization and the rule of law at the annual meeting of the American Political Science Association in Washington, D.C. In August, he presented a paper on the limits of the judicial power in the WTO at the World Trade Forum in Berne, Switzerland. At the University of Michigan, he has been named to the board of the International Institute and to the committee on Labor Standards and Human Rights.

Alene and Allan F. Smith Professor of Law Emeritus **Jerold H. Israel** delivered the Richard J. Childress Memorial Lecture at St. Louis University School of Law in September. He spoke on "The Independent Content of Due Process."

In October, **Frank R. Kennedy**, the Thomas M. Cooley Professor Emeritus of Law, was awarded the National Conference of Bankruptcy Judges' Endowment for Education Award for Excellence in Education, which is dedicated to "individuals who have enhanced the quality of education or made a significant contribution to insolvency and bankruptcy practice." A cash prize and engraved silver bowl accompanied the award. Kennedy is also co-author (with Countryman and Williams) of the recently published book *Partnerships, Limited Liability Entities and S Corporations in Bankruptcy,* Volume 1 (Aspen Law and Business).

Law School Library Director **Margaret Leary** has been elected vice-chair of the Ann Arbor City Planning Commission for its 2000-01 year.

Francis A. Allen Collegiate Professor of Law **Richard O. Lempert**, '68, presented research on the Law School's minority graduates in practice and served as faculty leader for the five-day Annual Law and Society Association Summer Institute. He also participated in a conference on new directions for the social sciences sponsored by the Consortium of Social Science Associations and held in Washington, D.C., and spoke at the UCLA Law School on his research on Law School minority graduates. He was a panelist discussing the sociology of law for the American Sociological Association's annual meeting.

During the fall, Professor **Ronald J. Mann** was a visiting scholar at the Institute for Monetary and Economic Studies at the Bank of Japan, where he compared Japanese and American use of debit and credit cards and the two countries' Internet payment systems. He also presented a number of talks while in Japan. (An excerpt of one of those talks begins on page 81.) In November, he discussed proposed revisions to the payment articles of the Uniform Commercial Code at the American Legal Institute-American Bar Association program on "The Emerged and Emerging New Uniform Commercial Code." In December, he presented a talk on the same subject to the Council of the American Law Institute. Later in December, he acted as reporter for a meeting of the drafting committee considering those revisions.

William W. Bishop Jr. Collegiate Professor of Law **Donald H. Regan** made his professional operatic debut as Raimondo in Donizetti's *Lucia di Lammermoor* with the Arbor Opera Theater in Ann Arbor in September.

Mathias W. Reimann, LL.M. '83, Hessel N. Yntema Professor of Law, spoke on "Beyond National Systems: Comparative Law in the International Age" at the World Congress of Comparative Law in New Orleans in November. Last summer, he chaired the Torts Group of the "Core of European Private Law" project at Trento, Italy, and delivered several talks in Korea: to the Korean Society of the Sociology of Law at Seoul, on mutual influences between German and American law; to the Korean Association of Private International Law, Seoul, on "Recent Developments in American Conflicts Law"; on "The Future of Comparative Law" at Ehwa Women's College, Seoul; and on "Recent Trends in Legal Education in Germany and the United States: Lessons for Korea?" at Seoul National University. He also organized and chaired a panel on "The Future of Comparative Law in the Transatlantic Context" for the German-American Lawyers Association in Bonn.

Clinical Professor **Nick Rine**, working in Cambodia on a Fulbright grant during the summer and fall, taught classes in democracy, mediation, and alternative dispute resolution for the Community Legal Education Center, and a new course on legal ethics for the Faculty of Law. "We wrote and published our own textbook over the summer in English and Khmer," he e-mailed. He also has been working with the Cambodian Bar Association to create a process of practical training and examinations to license law grads for practice, worked with law students, and served as informal legal adviser for several human rights-oriented NGOs.

The Michigan Supreme Court has named **Theodore J. St. Antoine**, '54, James E. and Sarah A. Degan Professor Emeritus of Law, vice chairperson of the Michigan Attorney Discipline Board for 2000-01. In September, he was

a panelist for discussion of "Labor Contracts and Civil Contracts" at the XVI World Congress of the International Society for Labor Law and Social Security in Jerusalem. He also has been elected chairman of the United Auto Workers' Public Review Board, a seven-member body that handles union members' claims of violations of the UAW's constitution or its Ethical Practices Codes.

Terrance Sandalow, Edson R. Sunderland Professor Emeritus of Law, has been elected national president of the Order of the Coif.

Affiliated Overseas Faculty member **Bruno Simma** in December participated in a consultation organized by the government of the Republic of Cyprus on aspects of a federal solution to the Cyprus question. In November, he pleaded before the International Court of Justice at The Hague as agent and counsel for the German government in *Germany v. United States*. (See related story on page 52.) Earlier in the year, he took part in the annual session of the UN's International Law Commission in Geneva, presented a paper on "The Role of the Scholar in the Formation of International Law" at the annual meeting of the American Society in Washington, D.C., and presented a paper on "International Adjudication and U.S. Policy: Past, Present, and Future" at a panel discussion on transnational justice/national sovereignty in Washington, D.C., on the occasion of the bicentennial of the Library of Congress.

Assistant Professor **Mark D. West** presented the paper "Why Shareholders Sue: The Evidence from Japan" at Yale University last fall. He also is World Bank consultant for a project on corporate governance to appear in the World Development Report.

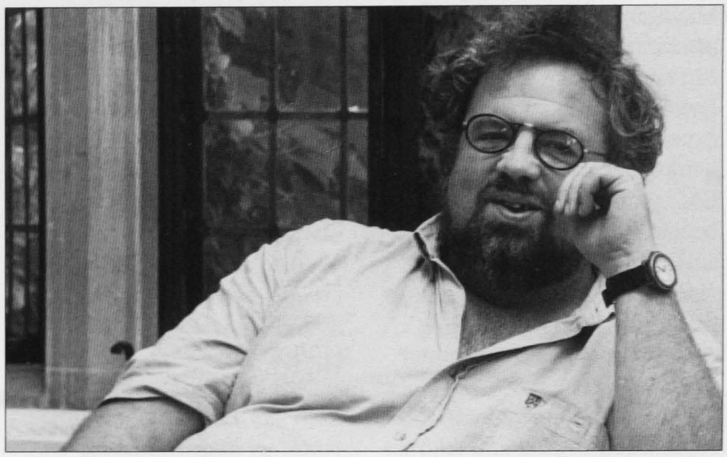
Hart Wright Collegiate Professor **James Boyd White** addresses the conference held by the Working Group on Law, Humanities, and Culture in Austin in March.

Visiting and Adjunct Faculty

During the fall term, Adjunct Professor **Laurence D. Connor**, '65, discussed adoption and implementation of Michigan's new court rules on alternative dispute resolution in addresses to the Michigan Judicial Institute in Lansing and the Judicial Conference in Traverse City. In October, he moderated the Institute of Continuing Legal Education program "ADR: Are You Ready for the New Rules? Making the Options Work for You in General Civil Cases."

Adjunct Professor **Roberta J. Morris** lectured in November for a special engineering course that originated at the University of Michigan's Media Union and simultaneously was provided live to students in Delft, Netherlands, and Seoul, Korea; Morris lectured on patent law in a talk attended by U-M President Lee C. Bollinger and College of Engineering Dean Stephen Director. In December, she was a member of the panel discussing "Copy 'Rights'@the University of Michigan" as part of the ongoing symposium "Copyright Dilemmas in the Information Age."

Howse named advisor to *European Journal of International Law*



Professor Robert L. Howse

Professor Robert L. Howse, a specialist in international trade law and a pioneer in the application of human rights to international trade issues, has been appointed to the advisory board of the *European Journal of International Law* (EJIL).

Howse, a Law School faculty member since 1999, joins Thomas M. Franck of the New York University School of Law as the second person from the United States on the board. Franck is the Murry and Ida Becker Professor of Law at NYU's law school and director of the Center for International Studies.

The other 25 members of the advisory board are from throughout Europe and most are members of international courts and tribunals.

EJIL and the Law School jointly sponsored the U.S.-European symposium on "The Roles and Limits of Unilateralism in International Law" at the Law School in 1999 and have agreed to co-sponsor future conferences that alternate between being held at the Law School and in Europe. The next joint symposium, "The Impact on International Law of a Decade of Measures Against Iraq," will be at the European University Institute in Florence, Italy, May 23-26. EJIL is headquartered at the Academy of European Law in Florence.

Howse also has been named to the advisory board of *Legal Issues in Economic Integration*, the journal of the Europa Instituut and the Amsterdam Center for International Law.

Howse came to Michigan from the Faculty of Law at the University of Toronto, where he taught from 1990-99. He received his B.A. in philosophy and political science with high distinction, as well as his LL.B., with honors, from the University of Toronto. He also holds an LL.M. from the Harvard Law School and has traveled and studied Russian in the former Soviet Union.

Law School benefits from visiting, adjunct faculty

Faculty members from other law schools often spend time teaching at the University of Michigan Law School, and practicing attorneys frequently can be found at the head of Law School classes sharing the expertise they have gained from working in the legal profession. Each year, Law School students benefit from the experiences and perspectives of such visitors, whose presence adds to the already-rich learning experience students encounter here.

Last fall, *Law Quadrangle Notes* listed visiting and adjunct faculty members who are teaching here for the entire 2000-2001 academic year or who were teaching at the Law School during the fall term. Following are those who are teaching at the Law School during this winter term.

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

P.E. Bennett, '76, is an adjunct clinical assistant professor of law and teaches Criminal Appellate Practice. He received a B.S. in mathematics, an M.A. in computer and communications science, and a J.D., all from the University of Michigan. He works as an assistant defender at the State Appellate Defender Office in Detroit. Bennett has represented clients in hundreds of appeals at all levels of state and federal courts. Examples of some of his cases in the Michigan Supreme Court are: *People v. Milbourn*, 435 Mich 630; 461 NW2d 1 (1990); *People v. Moore*, 432 Mich 311; 439 NW2d 684 (1989); *People v. Gonzales*, 417 Mich 523; 339 NW2d 440 (1983); *People v. Paintman*, 412 Mich 518; 315 NW2d 418 (1982); *People v. Clabin*, 411 Mich 472; 307 NW2d 682 (1981); and *People v. Wright*, 408 Mich 1; 289 NW2d 1 (1980).

Adjunct Clinical Assistant Professor **Lori L. Cohen** currently litigates asylum matters for the Office of Migration of the Archdiocese of Detroit and was the director of the office from 1996-1998. She received her B.A. from Yale College in 1985 and her J.D. from Yale Law School in 1989. Cohen was a law clerk for the Honorable Consuelo B. Marshall in the Central District of California from 1990-1991, and was an associate attorney at the Los Angeles office of Heller, Ehrman, White & McAuliffe from 1992-1993. She is the chair of the *ad hoc Pro Bono* Committee for the Michigan Chapter of the American Immigration Lawyers' Association (AILA) and is on the Board of Directors for Farmworker Legal Services. She served as president of the Michigan Coalition for Immigrant and Refugee Protection (MCIRP) from 1997-1998. Cohen is currently serving as an advisor on asylum issues for the Law School's clinical program, and is teaching Immigration Law in the winter term.

Adjunct Professor **Patricia M. Curtner**, '78, is a managing partner of Chapman and Cutler, which has its principal office in Chicago. Curtner was the first woman elected to a standing committee of her firm and is currently in her fifth year as a member of its Policy Committee, which manages the firm's general operations and selects its chief executive partner. As coordinator of Chapman and Cutler's Economic Development Practice Group, she is a frequent lecturer on public finance and is the senior author of the tax increment financing chapter for the Illinois Institute for Continuing Legal Education's municipal law handbook. Curtner is teaching Law as a Business.

Visiting Professor **Gráinne de Búrca**, LL.M. '87, studied law at University College Dublin and the University of Michigan, and became a member of King's Inns, Dublin, where she was admitted to the Bar in 1989. In 1990 she was appointed a university lecturer in law at Oxford and a fellow of Somerville College, and subsequently became deputy director of the University's Centre for European and Comparative Law. In 1998 she became professor of law at the European University Institute (EUI) in Florence. She is review editor of the *Yearbook of European Law* and the *Oxford Journal of Legal Studies*, co-editor of the OUP *Oxford Studies in European Law* series, and of the OUP *Collected Courses of the Academy* series, and a member of various editorial boards. She is currently co-director of the EUI Academy of European Law. She has published mainly in the area of EC and EU law, concentrating primarily on constitutional issues of European integration, and is currently preparing a third edition of the textbook *EU Law: Text, Cases and Materials*, co-written with Professor Paul Craig. De Búrca joins Assistant Professor Daniel Halberstam in teaching European Legal Order.

Adjunct Professor **Timothy L. Dickinson**, '79, is a partner with Dickinson Landmeier LLP, Washington, D.C., where he practices in international commercial transactions, foreign sales and investments, economic sanctions and foreign claims, FCHP, export regulations and enforcement, European Community law, and public international law areas. He also has taught at Georgetown Law Center as an adjunct professor. He is teaching International Commercial Transactions.

Visiting Professor **James Forman** is a graduate of Brown University and Yale Law School. While attending law school, he was active in BLSA and was a book reviews editor for the *Yale Law Journal*. Following graduation, he served as a judicial clerk for both U.S. Supreme Court Justice Sandra Day O'Connor and Judge William Norris of the Ninth Circuit. Forman worked for six years with the Public Defender Service in Washington, D.C., where he represented juveniles and adults in serious felony cases, including murder and rape cases. In 1999, he was promoted to training director for new attorneys at the agency and developed the inaugural training program for the independent CJA bar. Forman's interest in educational programs for at-risk and court-involved youth led him to start, along

with a colleague, the Maya Angelou Public Charter School in 1997. The school is recognized as one of the most successful programs of its kind in the country, combining rigorous education, job training, counseling, mental health services, life skills, and dormitory living for school dropouts and youth who have previously been incarcerated. Please visit the school's Web site at www.seeforever.org for more information.

Visiting Professor **Tomotaka Fujita** visits the Law School March 12-23. He is an associate professor specializing in commercial law at the University of Tokyo Faculty of Law. Fujita writes in the areas of commercial transactions and finance and corporate law and is teaching, among other things, U.S. Transaction Law and Corporate Finance.

Visiting Professor **Karthy Govender**, LL.M. '88, visited the Law School in January. He has been a professor in the Department of Public Law at the University of Natal, where he has taught constitutional, administrative, and family law, as well as evidence and criminal procedure. He is also a member of the South African Human Rights Commission. Govender co-taught Constitutionalism in South Africa with David Chambers, the Wade H. McCree Jr. Collegiate Professor of Law.

Adjunct Professor **Alison E. Hirschel** earned her B.A. from the University of Michigan and graduated from Yale Law School. She clerked for the Hon. Joseph S. Lord III in the U.S. District Court for the Eastern District of Pennsylvania. For 12 years, she worked at Community Legal Services in Philadelphia as a staff attorney, co-director of the Elderly Law Project, and deputy director. Since coming to Michigan, Hirschel has practiced elder law with Michigan Protection and Advocacy Service Inc. and the Michigan Poverty Law Project. Hirschel's practice has always included individual and impact litigation, legislative and administrative advocacy, and community education efforts. In 1997, she was named the first Yale Law School Arthur Liman Fellow. She also served as a Reginald Heber Smith Fellow and has won a number of other awards for her advocacy for the poor elderly. She speaks and writes frequently about elder law and public interest law. Hirschel has taught elder law at the Law School since 1998 and previously taught at the University of Pennsylvania from 1991-1997.

Visiting Professor **Gareth Jones** was educated at University College, London; University of Cambridge; and Harvard Law School. Jones currently teaches at the University of Cambridge but has spent many years teaching law in the United States as well. Among the law schools at which he has taught are: Harvard, Berkeley, the University of Texas, the University of Michigan, and the University of Chicago. Jones has written extensively on legal history (*The History of the Law of Charity*, Cambridge University Press), with Lord Goff, a member of the House of Lords; the Supreme Appellate Court, on the Law of Restitution; and, with Professor Peter Schlechtriem of the University of Freiburg, on aspects of the law of contracts. He is a member of the American Law Institute and a foreign member of the Royal Netherlands Academy of Arts and Science, as well as Queen's Counsel and fellow of the British Academy. Jones is teaching Contracts and a seminar on Select Topics in Legal History, which includes the history of the criminal trial and a critical study of the text of Blackstone's *Commentaries*.

Affiliated Professor **Riyaz A. Kanji** received an A.B. in social studies from Harvard College in 1986 and a J.D. from the Yale Law School in 1991. At Yale, he served on the *Yale Law Journal* and won the Potter Stewart Prize in the Moot Court competition. He served as a law clerk to Judge Betty Fletcher of the U. S. Court of Appeals for the Ninth Circuit and Justice David Souter of the U. S. Supreme Court. 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. As an attorney at Williams & Connolly in Washington, D.C., he litigated a wide variety of matters at the trial and appellate levels, including tribal, constitutional, libel defense, and commercial cases. He is a principal in the firm of Kanji & Katzen PLLC that specializes in the litigation of cases on behalf of Native American tribes. He is teaching a seminar in Contemporary Issues in Native American Law.

Adjunct Professor **Marvin Krislov** is the vice president and general counsel of the University of Michigan. In this position, he is responsible for the University's legal affairs, including establishing goals and strategies, serving as senior legal counsel to the Board of Regents and the University administration and its units, and managing the University's relationships with outside counsel. Krislov received a B.A. degree, *summa cum laude*, from Yale University in 1982. A Rhodes Scholar, he studied at Oxford University's Magdalen College, where he received an M.A. degree in modern history in 1985. He served as editor of the *Yale Law Journal* and earned a doctor of laws degree from Yale Law School in 1988. From 1988 to 1989 he worked as a law clerk for Judge Marilyn Hall Patel of the U.S. District Court in San Francisco. Prior to coming to the University of Michigan, he was acting solicitor in the U.S. Department of Labor, and deputy solicitor serving as the primary legal advisor to the Secretary of Labor. He also served as associate counsel in the Office of Counsel to the President, where he handled litigation and policy matters; was a trial attorney for the U.S. Department of Justice's Civil Rights Division, where he prosecuted racial violence and police brutality cases in grand jury investigations and at trials throughout the country; and taught at the National Law Center at George Washington University. He is teaching a seminar, The Role of In-House Counsel.

Visiting Professor **Minoru Nakazato** is visiting the Law School March 26-April 6 from the University of Tokyo Faculty of Law. His academic speciality is tax law. He also writes in the

field of law and economics. With Mark Ramseyer, Nakazato has written about Japanese litigation rates and co-authored *Japanese Law: An Economic Approach.*

Adjunct Professor **Steven W. 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 formerly served as a law clerk for District Judge John Feikens, '41, 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 procedure and has taught at the Law School since 1992. He is teaching Bankruptcy.

Adjunct Professor **Mark D. Rosenbaum** is general counsel for the American Civil Liberties Union in Los Angeles. He received a B.A. from the University of Michigan and a J.D. from Harvard Law School, where he was vice president of the Harvard Legal Aid Bureau. He served as staff counsel for the American Civil Liberties Union from 1974 to 1984 and has been general counsel since 1984. Rosenbaum has taught at Loyola Law School, Harvard Law School, and the University of Southern California Law Center. He began teaching at Michigan 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.

Adjunct Professor **Edward R. Stein**, '66, specializes in civil litigation at Stein, Moran, Raimi & Goethel in Ann Arbor. He is a fellow of the American College of Trial Lawyers, a member of the American Board of Trial Advocates, and is listed in *The Best Lawyers in America.* He regularly teaches for the National Institute for Trial Advocacy, and is the recipient of its Distinguished Service Award and Prentice Marshall Faculty Award. He frequently lectures on various aspects of trial practice, and most recently has lectured extensively on the use of electronic demonstrative evidence. He is co-author of the National Institute for Trial Advocacy's publication, *PowerPoint for Litigators*. Stein is teaching Trial Practice.

Law School contributes to success of AALS' annual meeting

From consideration of children's role as witnesses to analyses of the U.S. Supreme Court's decision to uphold its previous *Miranda* ruling and the role of comparative law in legal disputes, Law School faculty members were key movers in the annual meeting of the Association of American Law Schools in San Francisco in January.

Professors Richard D. Friedman, Yale Kamisar, and Mathias Reimann, LL.M. '83, were featured in programs that brought the perspectives of multiple speakers to an issue. In other programs, Law School professors Michael A. Heller and Deborah C. Malamud were featured speakers. And in other aspects of AALS' work, Professors David A. Chambers, Lawrence W. Waggoner, Suellyn Scarnecchia, '81, and Dean Jeffrey S. Lehman, '81, play significant roles.

Friedman, the Ralph W. Aigler Professor of Law, was one of seven speakers in the program "What Have We Learned about Children as Victims and Witnesses in the Criminal Trial Process?"

"Over the past two decades courts and scholars have grappled with how to meet the unique challenges posed to the criminal adjudication process by children when they appear either as victims or witnesses," explained the program notes. "This program is designed to look back across that period and, as to a set of central challenges, assess the lessons learned and the questions still unanswered."

Kamisar, the Clarence Darrow Distinguished University Professor of Law and a nationally known scholar and supporter of the *Miranda* rule, joined three other speakers, including *Miranda* opponent Paul G. Cassell of the University of Utah, to discuss "The Reaffirmation of *Miranda*: What's Next?" Kamisar and Cassell had debated each other last fall as part of a symposium on *Miranda* at the Law School. (See story on page 3.)

Reimann, the Hessel E. Yntema Professor of Law, joined three other speakers to discuss "The Role of Comparative Law in the Conflict of Laws."

"Although the bulk of conflicts cases continue to be interstate in nature, the phenomenon of 'globalization' assures that courts and counsel are confronted with an ever-increasing number of international transactions," according to the program for the discussion. "At the same time, the United States is actively engaged in negotiating conflicts conventions with foreign nations, which requires a sufficient understanding of their approaches to conflicts problems."

Others from the Law School involved in AALS programs:

- Professor Michael A. Heller presented a program on property.
- Professor Deborah C. Malamud spoke on "Labor and Employment Law."
- Wade H. McCree Jr. Professor of Law David A. Chambers co-chairs the Taskforce on Racial Diversity.
- Dean Jeffrey S. Lehman, '81, serves on the Conference on New Ideas for Experienced Teachers, a planning committee for 2001 conferences and workshops.
- Associate Dean for Clinical Affairs Suellyn Scarnecchia, '81, serves as a member of the Committee on Sections and Annual Meeting and as a member of the "Resource Corps" for special committees for 2001.
- Professor Lawrence W. Waggoner chairs the Workshop on Defining the Family in the Millenium, a planning committee for 2001 conferences and workshops.
- In addition, AALS President-Elect Mary Kay Kane is a 1971 graduate of the University of Michigan Law School. Kane is dean of the University of California's Hastings College of the Law in San Francisco.

35 Jochen Frowein, M.C.L. '58, plays pivotal role in Austrian sanctions issue

36 Hirshon: 'His face told me everything I really needed to know'

37 Graduates offer directions on the road to clerkship

38 Reunions much more than memories

40 Dores McCree honored

41 Danial Kim, '90, takes helm of *ABA Journal*

42 You can go home again — and make it better

44 Tacha, '71, named chief judge of Tenth Circuit Court of Appeals

44 Exelon names Randall E. Mehrberg, '80, vice president/ general counsel

45 Class notes

50 In memorium

Jochen Frowein, M.C.L. '58, plays pivotal role in Austrian sanctions issue

One of the decisive voices raised against continuation of European Union sanctions against Austria was that of Law School graduate Jochen Frowein, M.C.L. '58, director of the Max Planck Institute in Germany.

Frowein, who was instrumental in making facilities of his institute available for the Law School's Reunion of European Graduates last summer, was one of three experts named by European Commission officials to investigate human rights and political life in Austria. The move came as debate sharpened over the sanctions that were imposed after the strong showing of Jörg Haider and his right-wing Freedom Party in recent Austrian elections. Haider himself stepped down from the Freedom Party's leadership in February 2000 to blunt reaction against the party's often extreme positions, which many observers feared were Nazi-like.

Despite widespread opposition to the positions staked out by Haider and his party, there also was widespread criticism that the European Union's sanctions against Austria were an unwarranted intrusion into Austria's internal affairs. As criticism of the sanctions grew, many observers came to believe that EU leaders were looking for a way to lift the sanctions without appearing to retreat from their opposition to the Freedom Party.

"By the beginning of summer, signs of a thaw were already apparent," the *New York Times* reported last September. And "European Commission officials, trying to build a face-saving way to wriggle out of the sanctions, appointed a three-member panel to assess human rights and political life in Austria before making a recommendation on lifting the freeze."

In addition to Frowein, the panel included former Finnish President Martti Ahtisaari and Marcelino Oreja, a former Spanish government minister. As part of its fact-gathering and deliberation, the panel members visited Austria last July.

"In line with our mandate and based on a thorough examination, it is our considered view that the Austrian government is committed to the common European values," they concluded in their report, issued in September.

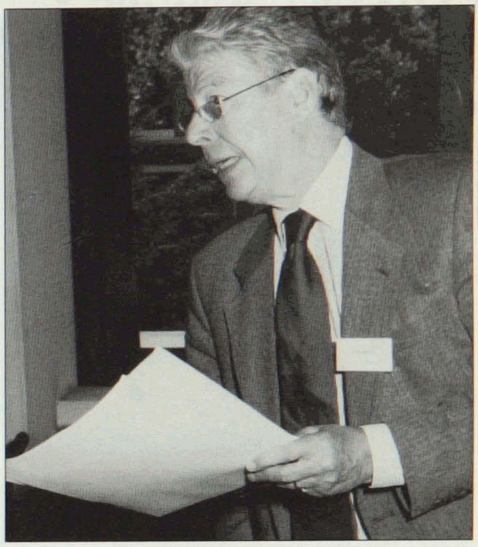


PHOTO BY ATELIER BORCHARD

Jochen Frowein, M.C.L. '58

"The Austrian government's respect in particular for the rights of minorities, refugees, and immigrants is not inferior to that of the other European Union member states. The legal situation in the three mentioned areas is well up to the standards applied in other EU member states. In some areas, particularly concerning the rights of national minorities, Austrian standards can be considered to be higher than those applied in many other EU countries."

Frowein and his colleagues took note of the Freedom Party's xenophobic sentiments, use of libel procedures to suppress criticism, and "radical elements," but also noted that the party's ministers "have by and large worked according to the government's commitments in carrying out their governmental activities so far."

They also noted that EU member states' sanctions have "heightened awareness of the importance of the common European values" and "energized the civil society to defend these values." But they felt "that the measures taken by the 14 member states, if continued, would become counter-productive and should therefore be ended."

The European Union lifted its sanctions against Austria four days after Frowein and his colleagues filed their report.

Hirshon:

'His face told me everything I really needed to know'

ABA President-elect Robert E. Hirshon, '73, recalls keenly the event that committed him to a career in the law:

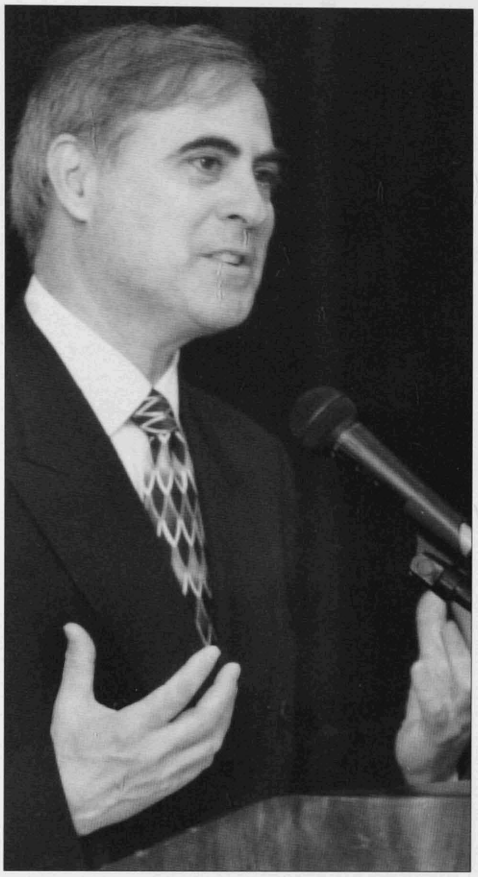
It was the early 1970s, the summer after his first year of legal studies, and he was a young law student on his first job with Pine Tree Legal Services in Maine. He was working in a mill town along the Androscoggin River, the kind of town where people live generation after generation in company-owned housing, pay the company rent, and tie their lives to the company's health.

Enter his client: "An elderly gentleman," that first client was, "who spoke as much English as I did French, which meant we were both in trouble." He was behind in his rent, "the case involved less than $100," and Hirshon was able to keep that worker in his home.

"That event that summer had a profound impact on me," Hirshon recalled in a talk for the Law School last November. "It made me proud to know I was going to be a lawyer, that I was going into a profession that could make one person's life better. I understood then the good that I could do as a lawyer. His face told me everything I really needed to know."

Hirshon never lost that insight, nor let it dim, but nearly 30 years later he fears that many lawyers of his generation have switched to pecuniary rather than service goals. Too many lawyers today think of hours, not help, and profit, not professionalism, he said during his lecture in the Office of Public Service's Inspiring Paths series. He rues the debt that law school graduates combine with receipt of their J.D. — an average of $95,000 by this year. But he defiantly tells young law students and new lawyers that "you should not be forced to subvert your professional goals because of debt."

Hirshon, a shareholder in Drummond Woodsum & Machon of Portland, Maine, where he has practiced his entire career, assumes the ABA presidency in August. He plans to launch discussions with experts from throughout the country to ease the debt burden for law school graduates, perhaps with federal help, on the model of federal aid for medical training. Meanwhile, he praises law schools like the U-M Law School that have established debt forgiveness and debt alleviation programs that allow graduates to take lower paying jobs that the public service sector often offers.



American Bar Association President-elect Robert Hirshon, '73, tells Law School listeners that there is room for pro bono *work in modern law practice if young lawyers demand it. Hirshon, who assumes presidency of the 400,000-member ABA this August, spoke in November as part of the Office of Public Service's Inspiring Paths speaker series.*

But there's no reason that *pro bono* work cannot be a significant part of most law firms' practices, too, he says. "I don't buy the argument. I don't buy it one bit. Many large firms still do significant *pro bono* work. Many lawyers work regularly in programs like the Volunteer Lawyers Project in Portland, Maine. I believe the diminishment of *pro bono* is not a necessity. I believe it is a choice."

Many firms provide health club memberships and other, similar benefits, he said. "*Pro bono* can be treated as a benefit if that is what you want to do." Student interviewees should ask about *pro bono* work, young associates should push for it, and three-to-five-year veterans who have become profit-makers for their firms should demand it, he said. "My point is that these firms are pursuing you just as hard as you are pursuing them. Use your leverage."

"Help somebody. Use those talents you gained in Ann Arbor to help someone. That, I suggest, is the essence of being a lawyer."

Later, in a long, relaxed chat, Hirshon elaborated on three other issues facing the legal profession: "ridiculously and dangerously high" salaries, technology, and diversity.

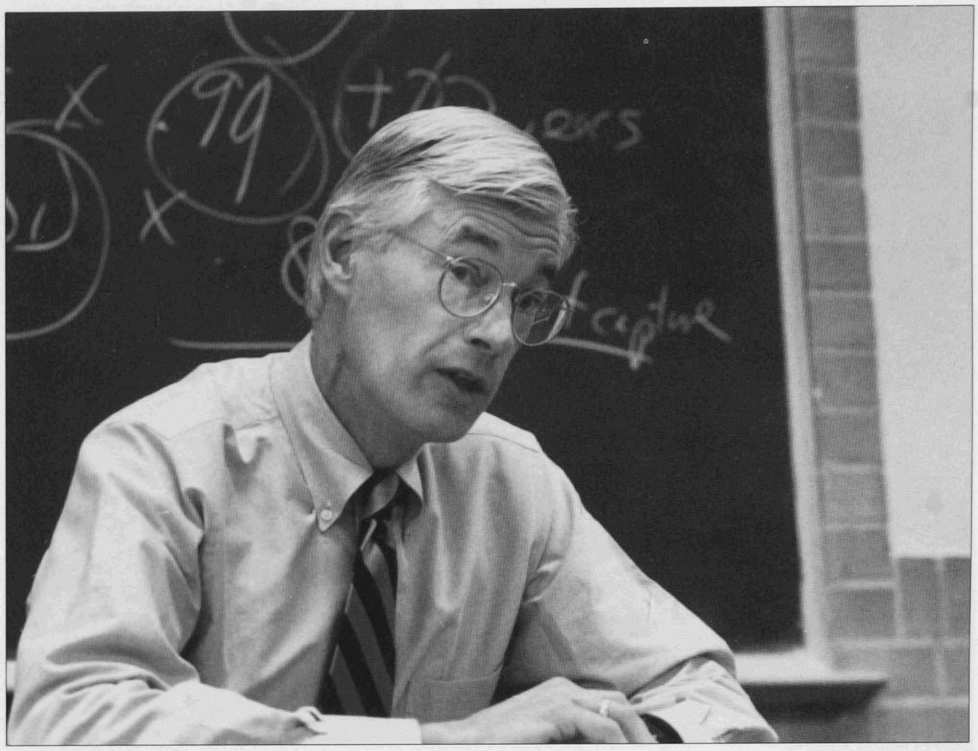
Today's ideal starting job often is thought to be one that offers $140,000 a year, a major difference from the once-ideal position "in which you could make a difference," he said. "It's a totally different standard today. Sort of a Siren's call, shipwrecking you on the rocks of greed." Yesterday's fixed fees have been transformed into billable hours. "Now lawyers are being measured by what the time sheet spits out."

Some of this change is shaped by technology, he said, and "I think the profession has allowed technology to become our master." Twenty-four seven, he quips — the 24-hour-a-day, seven-day-a-week work schedule that laptop computers, modems, cell phones, faxes, and other devices both make possible and dictate.

As to diversity, it is "imperative" that the legal profession incorporate a rich mix of people, he said. "Diversity of backgrounds is most apt to lead to a diversity of opinions, and that's more likely to lead to a better decision."

Hirshon returns to Ann Arbor in May as speaker for the Law School's Senior Day ceremonies.

Graduates offer directions on the road to **clerkship**



Alaska's highest court is "a very collegial court," Alaska Supreme Court Justice Robert Eastaugh, '68, explains during a program at the Law School in October. It's also a very busy court: "The time we have to think and to write opinions is very limited."

Seeking out and working at a clerkship is a significant extension of education and training for many Law School graduates and the Law School sponsors programs to help students in their hunt for clerkships.

Often, these programs bring graduates back to the Law School to share their experiences with soon-to-be fellow graduates. In one program last fall, Sarah Zearfoss, '92, an attorney/counselor with the Law School's Office of Career Services, joined with two fellow panelists to offer insights into how to get clerkships, what being a clerk may involve, and other aspects of the clerkship experience.

Her fellow panelists included Saura Sahu, '99, clerk to the Hon. Julian A. Cook Jr. of the U.S. District Court for the Eastern District of Michigan; and the Hon. Kurt Wilder, '84, of the Michigan Court of Appeals.

Said Wilder: in the Court of Appeals' pre-hearing division, "I think the most exciting thing about the pre-hearing division opportunity is that if you plan to stay in Michigan, I don't know of anywhere else you'll be exposed to as much in as short a time. . . . Ultimately, I think that learning by doing is the best aspect of being a clerk."

In a separate program last fall, Alaska Supreme Justice Robert Eastaugh, '68, described the work of his court and how clerks contribute to it.

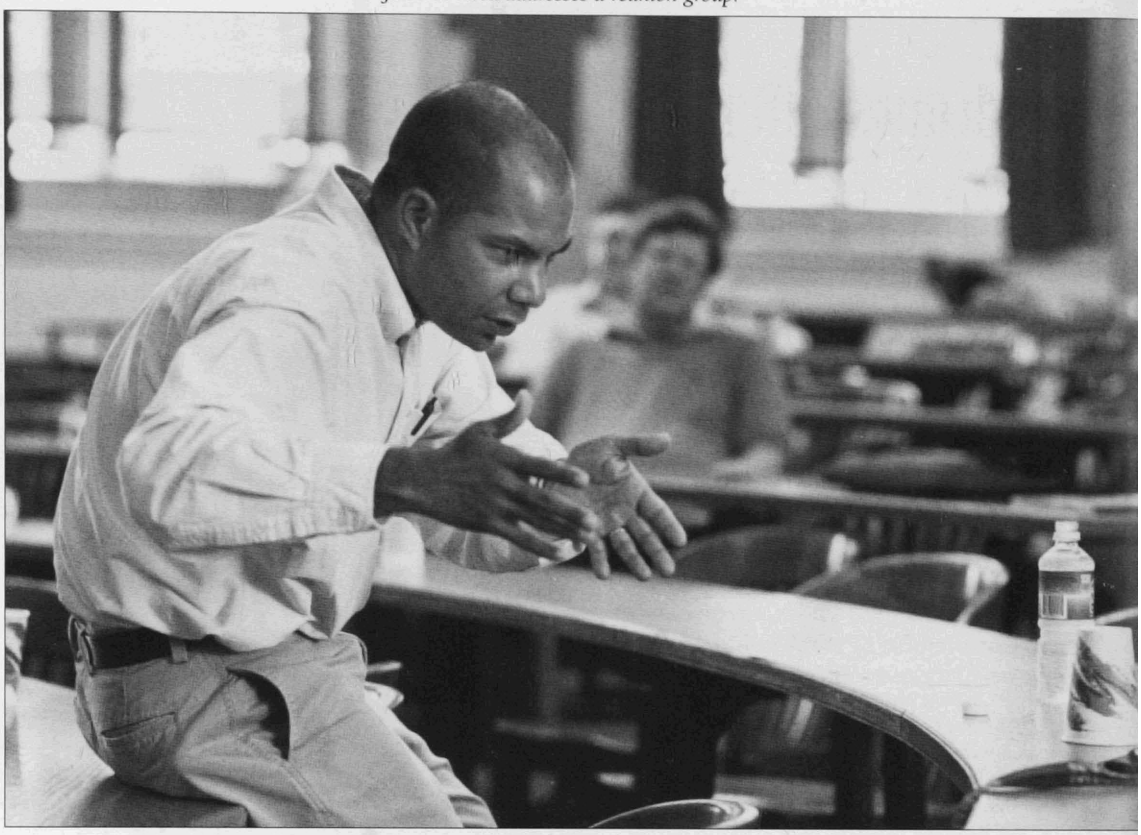
"Our court, like all state and appellate courts everywhere, is very dependent on clerks," Eastaugh said. Alaska's scenic beauty is a plus — from his (and his clerks') windows he can see Mt. McKinley more than 200 miles away, and through another window, which offers a view of the ocean, he sometimes spies Beluga whales feeding on salmon.

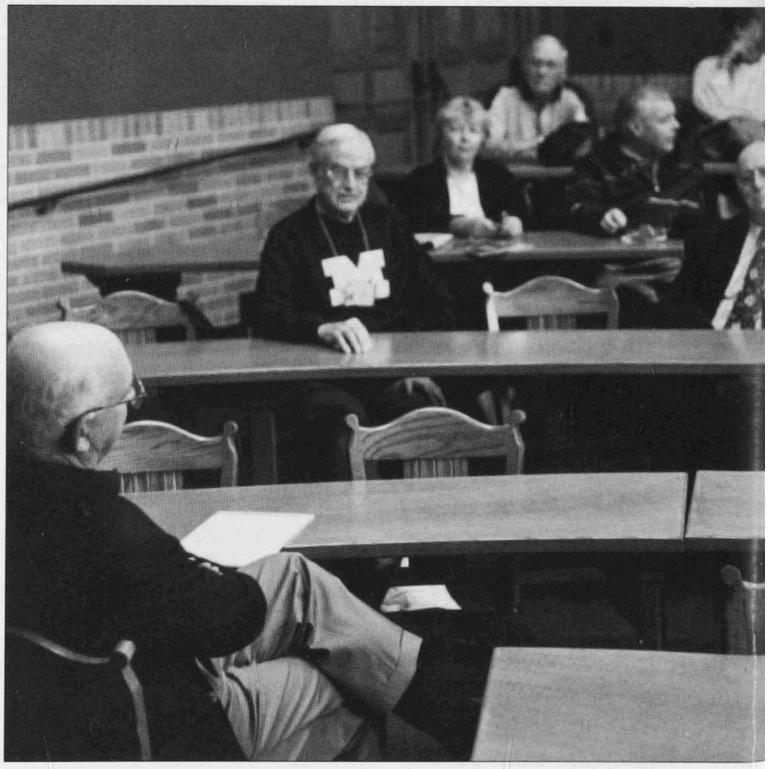
The caseload is fascinating — filled with the "situational oddities" that reflect Alaska's recent statehood and long territorial status, he reported. The court's five justices are "intellectually honest and hardworking" and make for "a very collegial court." The court is "very busy. The time we have to think and to write opinions is very limited."

Reunions

much more than memories

Faculty members and Law School staff members often mingle with graduates at reunions, and frequently serve as speakers and panelists for reunion activities. Below, Professor Sherman Clark speaks on "Persuasion" and (bottom of page) Henry M. Butzel Professor of Law Thomas E. Kauper, '60, discusses past and present Law School life. At right, Rosa Peters, director of information technology for the Law School, explains the extensive technological advances that have been made at the School and Thomas M. Cooley Professor Emeritus John W. Reed addresses a reunion group.



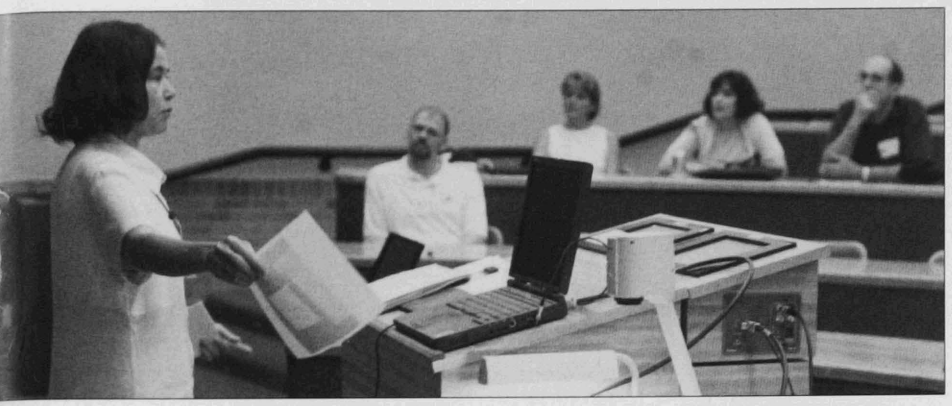


Thought-provoking programs that plumb the present and future are as much part of Law School graduates' reunions as Wolverine football and nostalgic trips down memory lane.

For example, the programs for last fall's reunion weekends, held in September and October, included a panel discussion by three sitting U.S. Appeals Court judges, all members of the class of 1965, one of only five U.S. law school classes to include four or more sitting federal appellate court judges; discussions of women's advancement in the legal profession and the future of the profession itself; talks by faculty members; and other activities.

Fellow graduates and current students packed room 250 in Hutchins Hall to hear the three 1965 graduates discuss "Life on the Bench": the Hon. David Ebel, of the U.S. Court of Appeals for the Tenth Circuit; the Hon. Harry T. Edwards, chief judge of the U.S. Court of Appeals for the District of Columbia Circuit; and the Hon. Rosemary Pooler, of the U.S. Court of Appeals for the Second Circuit. (The fourth member of the class of 1965 who is a federal appeals court judge is the Hon. Anthony J. Scirica of the U.S. Court of Appeals for the Third Circuit.)

With a mix of often self-deprecating humor and the wisdom of deep experience, the three judges discussed their paths to their current posts, their intertwining roles as judge and citizen, the role of clerks in their courts, and other matters. "I got on the bench by saying no," explained Ebel, who was appointed to the bench in 1988 by President Reagan. Ebel first turned down a bankruptcy



judgeship, then a district judgeship. "Then the court of appeals position opened, and I was nobody's first choice." But the alchemy caused by the ending of President Reagan's second term and the Democrats' takeover of the U.S. Senate created conditions that led to his approval.

Edwards, who was appointed in 1980 by President Carter, said he accepted the post only on the condition that he could continue to teach; he has taught at Michigan, New York University, and Harvard. Pooler, named to the bench by President Clinton in 1998, said her path to the appeals court judgeship was "an interweaving of law, politics, and luck." Lawyers questioned her lack of legal practice experience, she said, but "as it turned out in retrospect, all they wanted was someone who would read their papers and be fair."

Clerks, the three judges agreed, are critical to courts' efficiency. But each judge uses clerks differently.

- Ebel: "I have to read 1,000 pages of substantive legal opinion per day. I have to write the equivalent of two law journal articles per week. How could I do this without clerks? They write the first draft along lines that I give them."
- Pooler: Wth 42-45 major opinions per term, clerks' research and drafting skills are critical. "I think we've succeeded when you can't tell who wrote [the opinion]."
- Edwards: Working with a good clerk is "a wonderful

Above, the Hon. Harry T. Edwards, '65, chief judge of the U.S. Court of Appeals for the District of Columbia Circuit, explains that his path to the bench was "an interweaving of law, politics, and luck." Edwards, with fellow panelists the Hon. David Ebel, '65, of the U.S. Court of Appeals for the Tenth Circuit, and the Hon. Rosemary Pooler, '65, of the U.S. Court of Appeals for the Second Circuit, discussed "Life on the Bench" during one of the reunion programs last fall.

experience. The experience is really beyond description. Many of my former clerks are among my best friends. . . . I tell my clerks, 'We don't disagree. The judgments are mine.' The smartest law students still don't have the experience [to make these decisions]. End of discussion. I don't want them making these calls. That's my responsibility."

Each reunion weekend also included an update from Dean Jeffrey S. Lehman, '81, who outlined progress at the Law School in the five years since the group's previous reunion and looked to changes in the future.

There has been "significant change in the last few years" and the mood at the Law School is "very upbeat," according to Lehman. Two years ago the Law School created its Center for International and Comparative Law to provide cohesion and support for its expanding international programs; this year it launched the Olin Center for Law and Economics to augment and support growth in the law and economics field.

The number of symposia and conferences has expanded, and the entering class also has grown from 340-350 in recent years to the 367 students who began Law School this academic year. Eight new faculty members have added depth and richness to the Law School, and the new required course in Transnational Law will broaden graduates' sense of how legal systems interact. Transnational Law will become a graduation requirment in 2004.

Class reunions are held every five years, and several classes come together for the Law School's fall reunion weekends.

In September, when the classes of 1975, '80, '85, '90, and '95 returned to the Law School, activities included programs like this:

- Professor Sherman Clark speaking on "Persuasion."

"There is a gap between what law professors talk about and what people care about," Clark explained. You can argue consequences — "Do this and you'll go to jail" — or the normative argument — this is right, or just — or you can go for the throat with the "meaning and identity" argument, what Clark calls "the last grizzly bear problem." Asks Clark: "Why is it a bad idea to wipe out the grizzly bear? What we care about is what it would say about us to kill the last grizzly bear."

- A panel discussion of "The State of the Profession and the Future of Professionalism — The Class of 1975 Looks Ahead."
- Rosa Peters, director of the Law School's Information Technology office, explaining and demonstrating "New Technology at the Law School."

The Law School is expanding wireless computer linkages. "The benefit of wireless is that the whole School becomes a lab," said Peters. The Law School is the largest wireless unit on the U-M campus at present, she reported. "This has been the answer to our lab limitations." Plans also are underway to create four information kiosks that visitors can use to find information and directions at the Law School.

- A panel discussion of *"United States v. Morrison*: Congress' Powers and Violence Against Women."

"Last term the Supreme Court held that federal legislation providing a civil remedy for violence against women fell beyond Congress' constitutional reach," noted the announcement of the panel discussion. Panelists included Dave Kopel, '85, of the Independence Institute; Ralph W. Aigler Professor of Law Richard Friedman; William W. Bishop Jr. Collegiate Professor of Law Donald H. Regan; and Associate Dean and Professor of Law Christina B. Whitman, '74. Kopel called the decision "a tremendously positive opinion for civil libertarians," but Whitman countered that "violence against women has a great impact on interstate commerce — travel, lodging, car rental." The decision, she said, "is more disturbing for its implications than for what it does."

Dores McCree, who touched the hearts of many law students, faculty, and staff during her eight years with the Law School, thanks well wishers at the celebration of her 80th birthday that accompanied the Law School's Minority Breakfast in September. In background is her daughter, Kathleen M. Lewis, '73, a partner in Dykema Gossett PLLC in Detroit. McCree retired in 1996.

■ And a program on "Moving Beyond the Glass Ceiling: Women in the Legal Profession."

"They don't tell you all the rules," complained a "Beyond the Glass Ceiling" panelist. Getting into the firm does not mean you also get into the golf or health club, or the top circles of power, she said. Another panelist, a former U.S. government attorney who now is with a Washington, D.C., law firm, said that there is more collegiality among government attorneys than private practice lawyers.

In October, the weekend reunion of the classes of 1950, '55, '60, '65, and '70 included programs like:

■ Thomas M. Cooley Professor of Law Emeritus John W. Reed discussing "Then and Now" at the Law School;

■ Former dean Theodore St. Antoine, '54, James E. and Sarah A. Degan Professor Emeritus, talking on "Change and Continuity" in legal education;

■ Henry M. Butzel Professor of Law Thomas E. Kauper, '60, speaking on "The Law School Yesterday and Today";

■ And the panel discussion of "Life on the Bench."

Dores McCree honored

There could be no more fitting time to pay tribute to Dores McCree than the annual Minority Breakfast that accompanies class reunions in the fall. During her eight years at the Law School, McCree helped hundreds of law students negotiate the rough places and uncertainties of law school.

Her late husband, one-time U.S. Solicitor General Wade W. McCree Jr., had been a beloved faculty member at the Law School, and Dores McCree quickly supplemented his classroom contribution with the wisdom and counseling that grew from her experiences growing up in Detroit, living in Washington, D.C., and genuinely caring for the people she helped.

Many of the beneficiaries of her kindness returned to the Law School in September for the Minority Breakfast that was part of the Law School's first of two reunion weekends. Among the well-wishers were McCree's daughter, Kathleen M. Lewis, '73, a partner in Dykema Gossett in Detroit, and son-in-law, David Baker Lewis, '70, a founding partner of Lewis, Clay & Munday of Detroit.

Dores McCree turned 80 on November 12, but these well-wishers couldn't wait for the official date and used the occasion of their own reunion to celebrate the life of a woman who has been so important to the life of the Law School.

"We celebrate her continued vitality and inspiration and presence at the Law School," said Dean Jeffrey S. Lehman, '81.

Now, quipped McCree, "I can stop being coy about my birthdays.

"I am so pleased that so many of you came out here, not for me, but for the Law School."

Danial Kim, '90, takes helm of *ABA Journal*

Danial J. Kim, '90

Danial J. Kim, '90, former interim executive director of the State Bar of Michigan, has become editor of the American Bar Association's magazine, the *ABA Journal*. He took over as editor in November, succeeding Gary A. Hengstler.

"I am very excited about helping to lead the *Journal* into the future," Kim said. "I am looking forward to using my experience as a lawyer, as publisher of *Michigan Lawyers Weekly*, and as a bar executive to help make the *Journal* a more valuable publication."

Prior to his service as interim executive director, Kim previously had served the Michigan State Bar as deputy executive director and was responsible for the State Bar's marketing department.

While with the State Bar, he developed the *e-Journal*, an electronic publication delivered daily by e-mail to members who provide an e-mail address. Kim won a Luminary Award last year from the National Association of Bar Executives (NABE) Communications Section for creating *e-Journal*; in 1999, *e-Journal* received a Gold Circle Award from the American Society of Association Executives. Kim is on NABE's Executive Council.

Before joining the State Bar's staff, Kim published *Michigan Lawyers Weekly* and practiced law with Clark, Klein & Beaumont in Detroit. He received his bachelor's degree and his J.D. from the University of Michigan.

The *ABA Journal* is the flagship publication of the American Bar Association, whose more than 400,000 members make it the largest voluntary professional membership organization in the world.

Another Law School graduate, Robert E. Hirshorn, '73, is president-elect of the ABA and will take over as president in August. (See story on page 36).

You can go home again — and make it better

Michael Tenbusch, '96, and Daniel Varner, '94, discovered over lunch one day how computers and sports could team up. They were discussing young people's needs in Motor City. To Varner, organized athletics could boost the well-being and self-concept of many young Detroiters. Tenbusch had the same role in mind for computers. "I said, Dan, I want to do the same, but these kids need computers," he recalled of that meeting in September 1996.

The two Law School graduates decided to merge their ideas and launch the group Think Detroit, which quickly has grown to enroll 2,000 youngsters in its baseball, basketball, and soccer programs and train some 20 young people each month in its computer familiarity and repair programs.

Headquartered in the former St. Dominic's School on Trumbull Avenue, Think Detroit uses city, school, and church courts and athletic fields for its sports programs and schools and other buildings for its computer training classes. Recently, it launched computer training for parents and guardians of enrolled youngsters. Participants who learn to use computers get a rebuilt computer to take home with them. Computers are donated by area businesses.

Young Detroiters had few organized competitive athletics, Tenbusch explained during a visit to the Law School last fall. And as residents of perhaps the poorest big city in the country, they also need computer and other skills to break out of their cycle of poverty.

"We knew kids needed the character that comes with team sports, and we knew they needed the tools of the future that come with access to technology," Tenbusch told the *New York Times* last spring.

Think Detroit participants mirror Detroit — 80 percent are African-American and 10 percent are Hispanic or Asian, Tenbusch said.

Originally, Think Detroit ran separate athletic and computer programs, but last year it began its Balls and Bytes program, which combines athletic leagues with computer classes for youngsters over 10. The idea is to ensure that participants benefit from both the sports and computer sides of Think Detroit's program. "A sound mind in a sound body," Tenbusch says, recalling the ancient Greek maxim.

The program has expanded operations from its beginning in the heart of the city and eventually expects to operate within the entire 18.1 square mile Empowerment Zone.

"I like Think Detroit because the kids grow as a result of learning new skills and being good at what they do," says one coach in the program who also has a child who participates. "They pay attention and learn discipline and unity. The parents come out and it's like developing a community. Think Detroit has helped us to develop our own little family."

Indeed, adds Tenbusch, parents' participation as volunteers to upgrade and maintain playing fields has brought an *esprit de corps* that some neighborhoods have not known for many years.

Tenbusch and Varner complement each other, like bricks and mortar, or pitcher and catcher. I'm the front man, the public speaker, the public face of Think Detroit, Tenbusch says. Varner is the organizer, the lower profile nuts-and-bolts guy who keeps things well oiled and running smoothly. Tenbusch chucked a legal career right away to steer Think Detroit. Varner practiced law in Detroit and did criminal defense work before shifting fulltime to Think Detroit early last year.

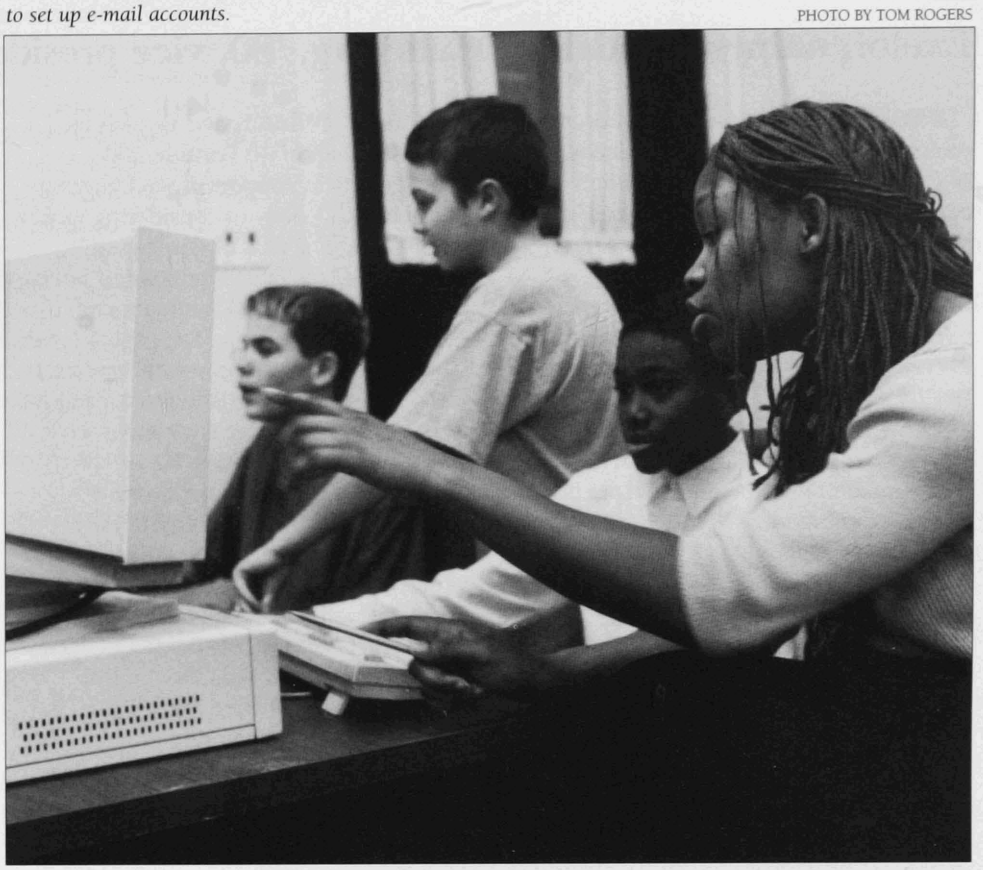
Varner used to quip that Think Detroit was his 9 p.m.-5 a.m. job. He enjoyed his his union-side labor law practice and, later, his criminal defense work, he says. But "quite honestly, I knew very early on that I didn't want to follow the traditional path. Even while I was in Law School I was in non-traditional projects, like the Haitian Refugee Project," which helped to win asylum for Haitians who fled to the United States.

Varner always had been interested in sports, and had come to believe that all kids who wanted to play should have the chance. And although he first used a computer when he came to the University of Michigan as an undergraduate, he had easy access to computers throughout his undegraduate and Law School years and came to appreciate their importance.

It was while he was clerking at the Minnesota Supreme Court after Law School graduation that he realized that some people didn't have such access to computers. He had taught and mentored youngsters before Law School, and he continued the practice in Minnesota. One of his student mentees was a young boy from St. Paul named Hasaan. "I would

Instructor Dachelle Nichols provides one-on-one time for students in a computer class sponsored by Think Detroit. In one class exercise, students used the Internet to search for tips to help them with math homework. One woman, waiting to pick up her son at the end of class, said the computer skills and equipment he brings home will be shared among all family members. "It'll be a family thing," she said. Earlier in the day, Nichols conducted Think Detroit's first computer class for adults. The adults learned to set up e-mail accounts.

PHOTO BY TOM ROGERS



bring him to the office at the court sometimes," Varner recalled. "He'd never seen a computer. He couldn't get enough of it." Hasaan's introduction to computers made a profound impression on Varner.

Think Detroit's founders could practice law anywhere they wish. But Detroit is home to them, and Think Detroit mirrors their attachment to it. "Detroit is a town filled with tragedies and adversity, and also a town filled with incredible life and beauty," said Tenbusch, who grew up in the city and used his wedding invitation list to solicit the first donations for Think Detroit. He and Varner raised $23,000 that first year.

That initial effort drew support from echoing-green, a private foundation suggested to Tenbusch and Varner by the Law School's Office of Public Service, then from the Kellogg Foundation and the Community Foundation of Southeast Michigan. Last year Think Detroit got a three-year $3 million grant from e-GM, the newly launched electronic GM supplier. E-GM President Mark Hogan is "a visionary in putting this much money with such a young management team," Tenbusch said.

Think Detroit, in fact, has drawn considerable attention nationwide — especially since an article about the program appeared last March in the *New York Times* — and now Tenbusch and Varner find themselves having to turn down requests to establish similar programs elsewhere. Their own roots, and therefore Think Detroit's, reach deep into Motor City.

"I grew up in Detroit. I came of age in the '80s, when it was a dangerous place to live, and also a beautiful place," Tenbusch said. "I grew up in Rosedale Park. Twelve- and 13-year-olds were carrying guns. Between 7th grade and high school five people on my block were shot, and four died. A 16-year-old friend died at a sweet-16 party in a drive-by shooting. It turned out that a friend of mine from grade school was the driver."

It was the kind of waste and violence he's always hated to see. "I felt there's got to be a way we can work through this together."

The answer? Think Detroit.

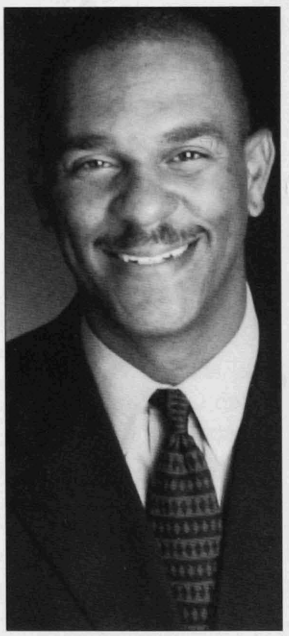


PHOTO BY STEVE BLANCHARD

PHOTO BY GREGORY FOX

Think Detroit's founders – Daniel Varner, '94, and Michael Tenbusch, '96.

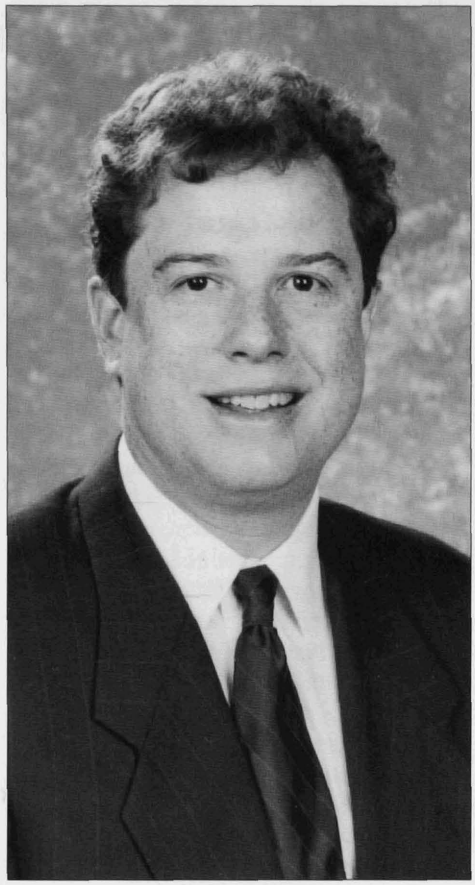
Exelon names Randall E. Mehrberg, '80, vice president/general counsel

Randall E. Mehrberg, '80, has become senior vice president and general counsel of Exelon Corporation, a $36 billion energy company that generates and distributes electricity and gas to some 5 million customers in Illinois and Pennsylvania and has holdings in energy, telecommunications, infrastructure and energy services. The firm is headquartered in Chicago.

Mehrberg, formerly an equity partner with Jenner & Block in Chicago, has won widespread praise for his active *pro bono* practice representing HOPE Fair Housing, the National Committee for the Prevention of Child Abuse, Catholic Charities, the ACLU, and mentally ill children in connection with treatment issues. In April, he was honored, along with two other Jenner & Block lawyers, with the Mexican American Legal Defense and Educational Fund's Legal Services Award for his "exemplary advancement of the legal rights of Mexican Americans."

He is a member of the Law School's Committee of Visitors and last fall filed a brief on behalf of 20 Fortune 500 corporations in support of the University of Michigan's policy of considering race in admissions. The trial of the lawsuit challenging Law School admission policies began in Detroit in mid-January and concluded in February. (See page 5 for the Law School admissions lawsuit update.)

Mehrberg always has found time amid the demands of his legal career for civic and community activities. He tutors children and serves on the board of CYCLE, a Cabrini Green community-based organization that provides educational support including tutoring and scholarship programs. He helped to create the Chicago Park District's Green Team and the Park Kids Program. In addition, he has chaired the Chicago Bar Association's Law Exploring Program, is an officer and director of Gus Giordano Jazz Dance, and is an active supporter of Chicago's museums and the Lincoln Park Zoo.



Randall E. Mehrberg,'80

Hon. Deanell Reece Tacha, '71

Tacha, '71, named chief judge of Tenth Circuit Court of Appeals

Investiture for the Hon. Deanell Reece Tacha, '71, as chief judge of the U.S. Court of Appeals for the Tenth Circuit was held in January at the University of Kansas. U.S. Supreme Court Justice Stephen Breyer presided.

Tacha previously has been a member of the Tenth Circuit Court of Appeals. The investiture was hosted by the University of Kansas School of Law, the Hall Center for the Humanities, the Kansas Bar Association, and the Kansas Health Foundation.

1949

The Hon. **Avern Cohn** of the U.S. District Court for the Eastern District of Michigan was honoree for the annual dinner of the ACLU Fund of Michigan and the Detroit Branch of the ACLU in December. Cohn was honored "for his dedication to the principles of the Constitution and the Bill of Rights and to the work of the American Civil Liberties Union. . . . We honor Judge Avern Cohn because his career as both a lawyer and jurist exemplifies the true purposes of the law — the pursuit of justice and the protection of freedom."

50TH REUNION

The Class of 1951 reunion will be September 21-23

Rex Eames, Chair
Donald G. Leavitt, Fundraising Chair

1951

Walter J. Russell and **Stephen C. Bransdorfer, '56**, write that they "are pleased to announce the combining of their firms' law practices and the formation of the law firm of Brandsdorfer & Russell LLP" in Grand Rapids. **Joel V. Soule, '64**, is of counsel with the new firm.

45TH REUNION

The Class of 1956 reunion will be September 21-23

Stephen (Steve) C. Bransdorfer, Chair

1959

"I am moving to a new phase in my life," writes **James W. Brehl**. He has withdrawn from the Minneapolis law firm Maun & Simon, where he was a partner, and has returned to St. Paul, where he plans to continue his professional and community activities. He will focus on service as an ADR neutral, and expects to continue handling some selected client matters.

J. Richard Emens is co-author of *Family Business Basics: The Guide to Family Business Financial Success* (AASF Publishing, 2000). Based on their experience advising family-owned or controlled businesses, Emens and co-author Beatrice E. Wolper provide techniques and practical advice for anyone involved in a family-owned business. The authors are partners in the law firm Chester, Wilcox & Saxbe LLP practicing in the areas of business planning, family-owned business, and corporate law, and they are family business owners.

1960

Boris Kozolchyk, S.J.D., director of the National Law Center for Inter-American Free Trade, has been awarded an honorary doctorate from the Universidad Nacional Autónoma de México in recognition of his high academic merit and his contribution through work and teaching to the development of law in Mexico and the spread of knowledge in international commercial law. He also was featured speaker for the annual membership meeting of the Hispanic Professional Action Committee in Arizona in December.

40TH REUNION

The Class of 1961 reunion will be September 21-23

James N. Adler, Irvine O. Hockaday Jr., Laurence M. Scoville Jr., and William Y. Webb, Co-Chairs

1964

Paul E. Gillmore, a Cleveland Republican, has been elected to his seventh term in Congress. He garnered 166,665 votes to beat Dennie Edmon, who received 60,801 votes.

1965

The partners, associates, and staff of Blatt, Hammesfahr & Eaton's Chicago, New York, Los Angeles, and London offices have joined the international law firm of Cozen and O'Connor, a full-service law firm with a large and sophisticated insurance practice. **Richard L. Blatt, Larry R. Eaton, '68, Gregory D. Hopp, '84**, and **Kristy L. Allen, '96**, are members of the firm.

35TH REUNION

The Class of 1966 reunion will be September 21-23

Charles E. Patterson and Alfred M. Butzbaugh, Co-Chairs

1968

Lee Hornberger and Donna Stoms were married August 24 on Mackinac Island, Michigan, and now reside in Cincinnati, Ohio.

Steve Hrones received the Edward J. Duggan Private Counsel Award "For Zealous Advocacy and Outstanding Legal Services to the Poor" from the Committee for Public Counsel Services of Massachusetts. Hrones is an attorney with the Boston law firm Hrones and Garrity.

30TH REUNION

The Class of 1971 reunion will be September 21-23

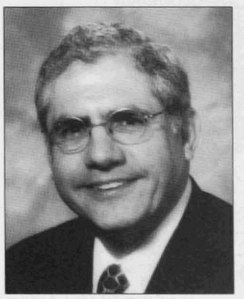
Richard R. Burns and Donald F. Tucker, Co-Chairs

1971

Laurence J. Kline has moved his practice to the Chicago law firm Hoogendoorn, Talbot, Davids, Godfrey and Milligan, where he is a partner. He will continue to focus on estate planning, business planning, and estate and trust administration. He was a partner and founder of Carroll, Kline & Wall.

Richard L. Nygaard is the author of *Sentencing As I See It* (Copperhouse Publishing Company, Incline Village, Nevada). The book is a collection of essays, previously published in various law reviews, critical of offense-based sentencing philosophy and advocating a correction-based, rehabilitative/therapeutic model.

1973



Steven E. Kushner has joined the St. Louis office of Thompson Coburn LLP as a partner in the real estate practice area. With extensive experience representing clients in all phases of real estate transactions, he also counsels clients on the structuring and formation of business entities and has helped clients with

workouts, bankruptcies, and reorganizations involving troubled projects and companies.

1974

At deadline time, **Larry D. Thompson** of Atlanta was named deputy attorney general by President Bush.

Robert G. van Schoonenberg has become executive vice president, general counsel, and secretary of Avery Dennison Corporation of Pasadena. He has been with Avery Dennison for 20 years, and previously served as senior vice president, general counsel, and secretary. "Bob is an executive who has made outstanding contributions to the success of this company," chairman and CEO Philip M. Neal said in announcing van Schoonenberg's promotion in December.

1975

Shirley Kaigler was elected to a three-year term on the State Bar of Michigan's Taxation Council and will serve as assistant editor of its publication, *The Michigan Tax Lawyer*. A partner with Detroit-based Jaffe Raitt Heuer & Weiss, Kaigler focuses her practice in the areas of probate and trust administration; estate, tax, retirement, and business succession planning; elder law; and health care proxy and special needs issues. She resides in Southfield, Michigan, with her family.

25TH REUNION

The Class of 1976 reunion will be September 14-16

Bertie N. Butts III, Chair

1977

Donald W. McVay has been named the founding chairman of the board of directors of First Pacific Bank, a newly organized community bank headquartered in La Jolla, California, with the first branch located in the North County. He continues to practice business, tax, and estate planning as a shareholder of McVay & Corrigan APC. He resides in Del Mar with his wife and their three children.

Ned Othman has joined the law firm Duane, Morris & Heckscher LLP as a partner in the Chicago office. Head of the national Corporate Finance Group, he represents domestic and international financial institutions and capital markets participants in a variety of public and private finance and investment transactions. He was previously a partner with Foley & Lardner, Chicago.

1978

President Clinton used his recess appointment privilege to name **Roger Lee Gregory**, of Wilder & Gregory, Richmond, Virginia, as the first African American on the U.S. Court of Appeals for the Fourth Circuit. The Fourth Circuit covers five mid-Atlantic states, including Virginia. A recess appointment is temporary unless approved by the U.S. Senate.

Pennsylvania Governor Tom Ridge has appointed **Christopher A. Lewis** to the state's Judicial Conduct Board. The 12-member board was created in 1993 to receive and investigate complaints regarding judicial conduct. Lewis is a partner in the Health Care Department at Blank Rome Comisky & McCauley LLP, where he concentrates in non-profit law, business law, insurance regulatory law, and government affairs.

Morley Witus has been elected to membership in the American Law Institute. He practices commercial litigation at Barris, Sott, Denn & Driker PLLC, Detroit.

1979

James H. Novis has joined Howard & Howard Attorneys PC in the law firm's Lansing office, where he specializes in taxation law with emphasis on state and local tax planning and controversies. He was previously employed by Touche Ross & Co. He lives in Lansing with his wife and family.

Clyde J. Robinson is celebrating his one-year anniversary as city attorney for Battle Creek, Michigan. He was initially hired in 1980 and held assistant and deputy city attorney positions before being named interim city attorney in January 1999 to replace **Paul R. Levy, '72.**

Mark A. Sterling has rejoined the law firm Hogan & Hartson LLP as a partner resident in the firm's new Miami office, which he helped establish. He previously worked for the firm from 1979-93. Sterling is a member of the firm's Health Group as well as its Corporate & Securities Group, practicing in both the Government Regulation and the Business & Finance practice areas. A District of Columbia resident, he also serves on the Board of Directors of Comprehensive Care Management Corporation, New York City.

1981

20TH REUNION

The Class of 1981 reunion will be September 14-16

Marianne Gaeber Dorado, Chair

Amy Wachs Fellner has joined the Arizona State University College of Law as the W.P. Carey Director of Placement. In this role, she works locally and nationally with courts, agencies, and law firms to place students in jobs that are a good fit for both the student and the hiring entity. Before moving to Arizona, she practiced law in Ohio and Michigan. She has taught courses in substantive criminal law, white-collar crime, and related topics as a faculty associate in the ASU School of

Justice Studies, and she taught employment law as an adjunct professor at the University of Phoenix.

(Marie) Antoinette Thomas has been elected to the American College of Trust and Estate Counsel. She is a partner in the New York City firm of Carter, Ledyard & Milburn, where she is a member of the Trusts and Estates Department and head of the Exempt Organizations Practice Group. Thomas also recently contributed a chapter, "Selecting a Not-for-Profit Entity," to a West Publications work on business entities that will be republished in a new edition in spring 2001, and a paper, "Estates and Foundation Beneficiaries," to the New York University 27th Conference on Tax Planning for 501(c)(3) Organizations (1999).

1982

Patrick J. Lamb has joined the Chicago litigation boutique Butler Rubin Saltarelli & Boyd as a partner. He continues to concentrate in business disputes and product liability.

David Lauth has been appointed president of the Board of Directors of the Greater Twin Cities Youth Symphonies (GTCYS). GTCYS is one of the nation's largest youth orchestra programs. It includes eight orchestras that serve hundreds of youth musicians in the upper Midwest. Lauth is a partner with Dorsey & Whitney, Minneapolis, practicing labor and employment law.

Richard S. Meller, who practices in the Corporate Department, has become a partner in Latham & Watkins, based in the firm's Chicago office. Among the firm's 21 other new partners are:

Kenneth A. Schuhmacher, '90, who practices in the Finance/Real Estate Department, in the London office; and **Charles W. Cox, '92**, who practices in the Litigation Department in the Los Angeles office. Latham & Watkins has more than 1,100 lawyers in 16 offices in the United States and overseas.

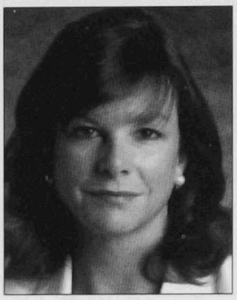
1983

Jonathan Banks has been appointed the general counsel of the Washington, D.C., office of BellSouth Corp. Banks joined the BellSouth Legal Department in 1995. Since then, he has practiced in the Antitrust Group in Atlanta, and has been heavily involved in the company's federal and state efforts to win approval to offer customers long distance service, as well as several other FCC proceedings.

Ellen S. Carmody has been appointed a magistrate judge for the U.S. District Court for the Western District of Michigan. She is a former shareholder with the law firm of Law, Weathers & Richardson PC, where she practiced civil litigation, specializing in commercial and employment cases, and in the field of mental health law.

Thomas C. Judge has joined the Chicago office of Altheimer & Gray as a partner. He is a member of the firm's Corporate Department, where he focuses on mergers and acquisitions.

Jamil Nasir's newest science fiction novel, *Distance Haze*, was published in March 2000 by Bantam Books.



U.S. Supreme Court Chief Justice William H. Rehnquist has appointed **Patricia Lee Refo**, a partner in the Phoenix office of Snell & Wilmer, to the Judicial Conference Advisory Committee on the Federal Rules of Evidence. The Judicial Conference is the national policy making body of the federal courts. The Advisory Committee on the Federal Rules of Evidence determines procedures "designed to promote simplicity, fairness, the just determination of litigation, and the elimination of unjustifiable expense and delay." It drafts amendments and proposes Federal Rules of Evidence for public comment, approval by the Judicial Conference and the U.S. Supreme Court, and submission to Congress.

1984

Peter Levine has been named vice president and assistant general counsel for TRW Inc. He is in charge of TRW's Occupant Safety Systems Group, which is the world's leading manufacturer of automotive safety systems, including airbags, seat belts, and steering wheels.

1985

Sharlene W. Lassiter was promoted to associate dean for academics at the Northern Kentucky University Salmon P. Chase College of Law in Highland Heights.

15TH REUNION

The Class of 1986 reunion will be September 14-16

Arthur H. Siegal, Chair

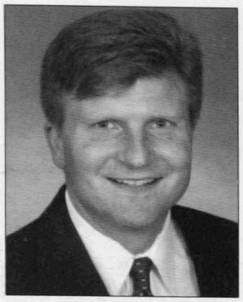
1986

G. Eric Brunstad Jr. was reappointed as a visiting lecturer from January 1-May 31, 2001, at Yale University School of Law. He is a partner at Bingham Dana LLP, resident in the firm's Hartford office, where he practices bankruptcy law with an emphasis on bankruptcy appeals. This past March he argued a bankruptcy appeal before the U.S. Supreme Court. He has published several articles on bankruptcy law, one of which has been quoted by the Supreme Court. His most recent article is "Bankruptcy and the Problems of Economic Futility: A Theory on the Unique Role of Bankruptcy Law," 55 *Business Law* 499 (2000).

Steven M. LaKind has been promoted from managing director to corporate managing director at Julien J. Studley Inc. LaKind joined Studley in 1995.

Robin K. Magee received the Hamline University Community Social Action Award and the International Leadership Institute's annual award for a decade of work in pursuit of social justice and equality. Magee teaches property and criminal law and procedure at Hamline University School of Law, St. Paul, Minnesota.

CLASS *notes*



Scott E. Munzel has joined the law firm of Bodman, Longley & Dahling LLP as a senior attorney practicing in the Ann Arbor office. He concentrates his practice in real estate development and zoning law, real property law, and municipal law.

Megan P. Norris, Detroit, was elected secretary-treasurer of the Detroit Metropolitan Bar Association. A principal in the Detroit office of Miller, Canfield, Paddock and Stone PLC, she practices in the firm's Labor Department concentrating in the area of employment litigation defense. Norris is co-author of the Schlei and Grossman *Employment Discrimination Law* supplement on the Americans with Disabilities Act (1998 and 2000).

Michael P. O'Neil has been elected a partner/director of Sommer & Barnard PC, where he has been of counsel since July 1999. He represents clients in matters relating to bankruptcy and creditors' rights, commercial litigation, and non-profit corporations. Prior to joining the firm, he was a partner with Freeborn & Peters, Chicago.

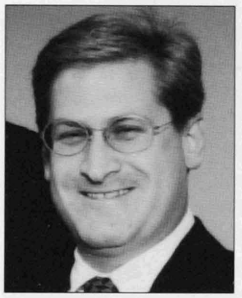
1987

Reginald Turner, a partner in Clark Hill of Detroit and vice president of the State Bar of Michigan, has been named to Detroit's school reform board to complete the two-year term of the former chairman, which ends in March 2001.

1988

David R. Downes has moved to the U.S. Department of the Interior to serve as senior advisor on trade and the environment with the Office of the Secretary. He helps the department address the growing implications that trade and trade policy have for its resource conservation responsibilities in a global economy. He was previously a senior attorney with the non-profit Center for International Environmental Law, Washington, D.C.

1989



Samuel W. Silver received the fourth annual Earl G. Harrison Pro Bono Award, given by Schnader Harrison Segal & Lewis LLP, in recognition of his distinguished record of and commitment to *pro bono* service. His *pro bono* services have concentrated on capital punishment, handling numerous difficult cases on the trial and appellate level. Silver is a member of the Litigation Department and the Mass Torts and Products Liability Practice Group in the Philadelphia office of Schnader Harrison.

Jack Williams has rejoined the law firm King & Spalding as a partner with the Business Litigation Practice Group in the Atlanta office. Since 1995, he had served as assistant U.S. attorney for the Northern District of Georgia, where he primarily prosecuted business crime and public corruption. Williams began his legal career at King & Spalding.

1990

Elizabeth B. Bryant was named a Minnesota Super Lawyer by the *Publications of Minneapolis/ St. Paul Magazine*, *Minnesota Law & Politics*, and *Twin Cities Business Monthly*. The distinction is based on the votes of attorneys from across the state, which are reviewed by a panel of 150 leading lawyers from 30 practice areas. The final list includes lawyers within the top point totals representing the top five percent of lawyers licensed to practice in Minnesota. Bryant is a partner with the law firm Zalk & Bryant PA, Minneapolis, and practices in the area of family law.

Thomas H. Howlett, a partner at The Googasian Firm PC, Bloomfield Hills, Michigan, has been appointed chairman of the State Bar of Michigan's Law and the Media Committee, which concerns itself with the relationship between courts, lawyers, and the electronic and print press. Howlett concentrates his litigation practice on behalf of clients in matters relating to catastrophic injury and death. He and his wife, **Kim Ruedi Howlett, '91**, live in Beverly Hills with their daughters, Jemma, 5, and Tessa, 2.

10TH REUNION

The Class of 1991 reunion will be September 14-16

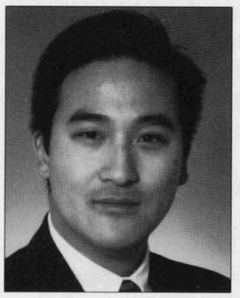
Robert J. Borthwick, Carla Folz Brigham, and Kevin T. Conroy, Co-Chairs

1991

The Ann Arbor office of the law firm Plunkett & Cooney PC has named **Juliet E. Pressel** to its Insurance Law Practice Group. She concentrates her practice in civil litigation.

1992

Victoria Aguilar has become general counsel and vice president for Legal and Regulatory Affairs, for NxGen Networks Inc., Denver, Colorado. She previously served as vice president of Public Policy, Law and Human Resources for Colorado-based FirstWorld Communications.



Anthony P. Cho has been named a shareholder of the law firm Howard & Howard Attorneys PC. Based in the Bloomfield Hills, Michigan, office, he focuses his practice on antitrust, intellectual property, telecommunications, and commercial litigation. He resides in Beverly Hills with his wife Tricia, and daughter, Madison Alana.

Patrick R. Kitchin was named president and chief executive officer of Investigation Logic Inc., an investigation and legal

services firm headquartered in San Francisco. Investigation Logic works with attorneys and companies throughout the United States performing litigation support and due diligence investigations. Kitchin was formerly a litigation associate with the law firm Sedgwick, Detert, Moran & Arnold.

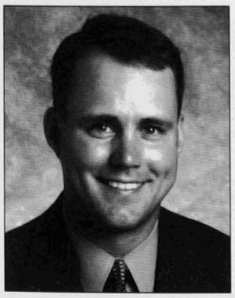
Michael A. Mazzuchi has been made a partner with Cleary, Gottlieb, Steen & Hamilton, Washington, D.C.

Tom Shaevsky has accepted a position at the Institutional Trust Division at Comerica Bank, Detroit.

Charles (Chip) Tea has been elected a partner of Kirkpatrick & Lockhart. He resides in Pittsburgh with his wife, Melissa, who is also an attorney with the firm.

1993

Colleen Barney, Newport Beach, California, appeared on the *Wall Street Journal Report* (CBS) to discuss estate planning. In 1996, she became California's youngest certified specialist in estate planning, trust, and probate law.



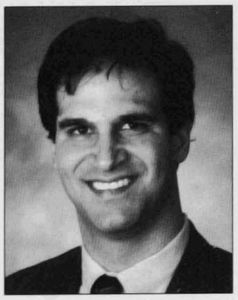
Robert A. Henry has been named a partner in Snell & Wilmer, headquartered at the firm's Phoenix office. Henry, who joined the firm in 1994, concentrates his practice in commercial, environmental, employment, OSHA defense, and real estate litigation.

David M. Saperstein and Susan Knoppow announce the birth of Samuel Isaac Knoppow Saperstein on September 20. Samuel has one big sister, Miriam. Saperstein practices municipal and insurance defense in the Detroit office of Garan Lucow Miller PC. His recent article, "The Abominable Snowman, the Easter Bunny, and 'The Intentional Tort Exception' to Governmental Immunity: Why *Sudul v. Hamtramck* was Wrongly Decided" can be accessed in the publications section of garanlucow.com.

Howard Sendrovitz has left Rosenman & Colin, New York, and now practices securities litigation as vice president and senior attorney at Morgan Stanley Dean Witter, New York.

Jeffrey Sherman has become a partner in Faegre & Benson LLP in its Denver office. He joined the firm last year after practicing with Otten, Johnson, Robinson, Neff & Gagonetti, PC. He concentrates his practice on corporate finance and securities, e-commerce, and technology and software.

Douglass M. Rayburn, Dallas, has been elected a partner of Baker Botts LLP, where he concentrates his practice on securities law, mergers and acquisitions, and general corporate matters.



Philip Stamatakos has been elected national partner in the Chicago office of the law firm Baker & McKenzie. His corporate transactional practice has particular emphasis on domestic and international mergers, acquisitions, divestitures, joint ventures, privatizations, commercial contracts, and corporate counseling. He and his family reside in the Chicago area.

1994

Barbara J. Gilbert has become a shareholder at the Montgomery, Alabama, law firm of Capell & Howard PC. She specializes in litigation.

Nevada Governor Kenny Guinn has appointed **Rick R. Hsu** to a four-year term on the State Commission on Ethics, which enforces the Nevada Code of Ethics and related ethics laws applicable to all public officers and employees. Hsu practices law in Reno for the law firm Walther, Key, Maupin, Oats, Cox & LeGoy, where he has been employed since graduation.

Allan Katz recently moved to Dallas and is now an associate with the law firm Winstead Sechrest & Minick PC. The focus of his practice is commercial real estate.

Steve Mellen has joined the law firm Bernstein Litowitz Berger & Grossman LLP, New York City, as an associate specializing in securities and class action litigation.

Greg Teufel has joined the Pittsburgh office of the law firm Schnader Harrison Segal & Lewis LLP. A sixth-year associate in the Litigation Department, he continues to practice commercial litigation, with a growing focus on employee benefits litigation.

1995

Peter C. Beckerman has left private practice after five years with Dorsey & Whitney LLP, Minneapolis, to join the chief counsel's office at the Food & Drug Administration, Washington, D.C. He now lives in Washington with his wife, Kim Gross, and their one-year-old daughter, Eleanor Lorraine Beckerman.

D. Andrew Portinga was elected secretary/treasurer of the Michigan State Bar Young Lawyers Section for a one-year term ending September 2001. He is an attorney with Miller, Johnson, Snell & Cummiskey PLC, Grand Rapids.

5TH REUNION

The Class of 1996 reunion will be September 14-16

Carol E. Dizon and Miranda C. Nye, Co-Chairs

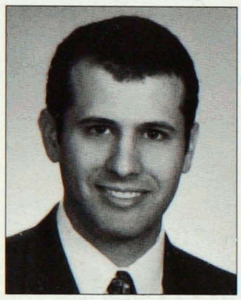
1996

Nathaniel Cade Jr., an associate at Michael Best & Friedrich LLP, Milwaukee, was appointed to the Wisconsin State Bar's Standing Committee on Professional Ethics. The committee formulates and recommends standards and

methods for ethics and conduct, considers and makes recommendations for amendments to the Rules of Professional Conduct, and has authority to express opinions regarding proper professional conduct. Cade's practice includes products liability, construction law, insurance defense, and business litigation.

Robert Tierney has joined the law firm Bracewell & Patterson LLP as an associate in the Houston office. He practices in the firm's Litigation Group.

2000



Aaron S. Berke has joined the law firm Vorys, Sater, Seymour and Pease LLP as an attorney in the Cleveland office.

Tricia L. Knight has joined the Milwaukee office of the law firm Michael Best & Friedrich LLP as an associate. Her practice focuses on employment relations law.

Alison J. Maki has joined the Chicago office of Vedder, Price, Kaufman & Kammholz as an associate. She was a *cum laude* graduate, serving as Selection Committee coordinator for the *Michigan Journal of Gender & Law* and as senior judge for the Legal Practice Program.

IN *memoriam*

'32	Sherwood Ake	October 1, 2000
'33	H. Winston Hathaway	November 13, 2000
'34	James J. Cohen	August 28, 2000
	Lawrence E. Hartwig	February 16, 2000
	Thomas A. Paulson	September 4, 2000
'36	Harry Paul Warner	December 11, 2000
'37	Clifford L. Ashton	August 8, 2000
	Herman J. Bloom	November 4, 1999
	William C. Hartman	October 13, 2000
	Robert W. Molloy	October 28, 2000
'38	Amos J. Coffman Sr.	July 22, 2000
	Ford M. Graham	August 14, 2000
	John Vincent Moran	August 27, 2000
	Lester H. Rose	July 11, 1999
	Theodore VanDellen	December 7, 2000
'40	Louis C. Baker	November 19, 2000
	Thomas W. Diver	September 15, 2000
'42	Jay Wootten Sorge Sr.	November 8, 2000
	William Stanley Wilson	October 18, 2000
	Harry D. Wise Jr.	November 13, 2000
'46	Peter P. Price	November 24, 2000
	Robert W. Richardson	November 24, 2000
'48	Albert T. Reddish	November 14, 2000
	Edward B. Spence	December 17, 1999
	Henry King Theiss	October 17, 2000
'49	Hon. David A. Nichols	June 21, 1997
	Robert E. Waldron	October 25, 2000
'51	Milton B. Dickerson	September 11, 2000
	James B. Dunkel Jr.	August 7, 2000
	George Neff Stevens (S.J.D.)	September 23, 1998
	Harry T. Watts	August 28, 2000
'52	George K. Cram	August 30, 2000
	Erwin C. Heininger	October 3, 2000
	Robert J. Reichert	October 1, 2000
	Hugo A. Walfred	June 10, 1998
'53	Howard M. Handelman	December 14, 1999
'54	Hon. Edward M. Yampolsky	November 3, 2000
'56	Alfred L. Haffner Jr.	August 22, 2000
'57	Fred Benson	January 20, 1999
	Roy H. Christiansen	October 6, 2000
	Richard W. Gates	November 2, 1997
	Bernard M. Gelber	September 8, 2000
'59	Darst B. Atherly	May 18, 2000
'60	James M. Clabault	January 8, 1995
	Irving Fuller	September 27, 2000
	Kenneth Anthony Webb Sr.	March 5, 1999
'63	Norman T. Smith	November 7, 2000
'64	Harry W. Scott	December 1, 1999
	Robert V. Seymour	August 12, 2000
'66	Peter L. Eppinga	
	James P. Parker	October 29, 2000
'68	Charles E. McCormick	July 18, 2000
'72	Wayne A. McCoy	August 29, 2000
'76	Dean M. Harris	June 11, 1999
'81	Amy R. Templeton	November 8, 2000

FEATURE

Each year more than 300 new Law School students begin their legal studies.

These students already have distinguished academic records, and many already have developed outstanding professional and service credentials. Admissions officials confidently predict that each new law student is equipped and able to succeed academically. With equal confidence, they can predict that our graduates will have the choice of many opportunities. What is unpredictable is how each student will tailor his Law School experience and professional opportunities to his own personality and goals. In previous Spring issues, we have given you a statistical profile of the entering class and presented profiles of members of those entering classes. This spring, in tandem with the statistical snapshot of the Law School's entering class, we offer a sampling of what some students have done as they pursue their legal studies and move into their careers:

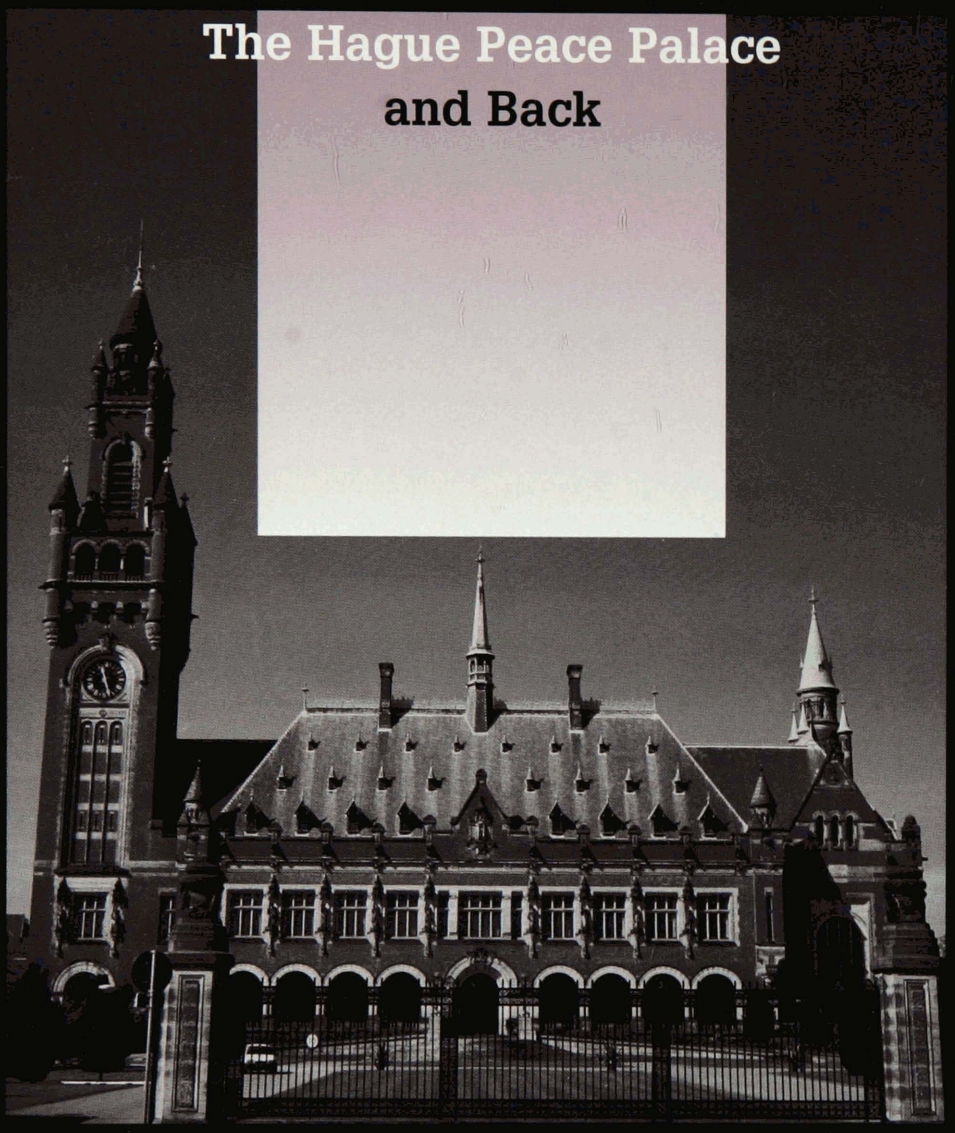
- Second-year law students Joshua A. Brook and Noah S. Leavitt travel to The Hague to work on the German side of a case against the United States before the European Court of Justice.
- Five students win fellowships to work with refugee and asylum agencies in North America, Europe, and Africa.
- Law student Amy Liu helps pave the way for presidential campaign visits.
- Third-year law student Jerod Gerson provides the push that wins freedom for a human rights activist imprisoned in Burma.
- A recent graduate and a soon-to-be graduate win prestigious Skadden Fellowships to work in the public interest sector in Washington, D.C.

The 2000 Entering Class

Total applications	**3432**
Total matriculants	**367**
Male	**209**
Female	**158**
Percent female	**43 percent**
Percent students of color	**28 percent**
(Native American, African American, Mexican American, Other Hispanic American, Asian American, Puerto Rican American, Multiethnic/Other Ethnicity)	
Percent Michigan resident	**25 percent**
Mean age	**24**
Youngest member	**20**
Eldest member	**44**

Source: Office of Admissions Report to Committee of Visitors, October 20

From Hutchins Hall to The Hague Peace Palace and Back



— By Joshua A. Brook and Noah S. Leavitt

It was 10 a.m. Monday morning (4 a.m. Ann Arbor time) and we had just arrived on the red-eye from Detroit. We had come to The Hague to observe oral arguments in the LaGrand case, a complex international legal dispute involving questions about the death penalty, treaty interpretation, criminal procedure, federalism, and remedies for wrongful acts of states.

For us, this was the culmination of a year of intense exposure to the international legal order, which had begun only a few weeks after Dean Jeffrey S. Lehman, '81, welcomed our first-year class to Ann Arbor.

The matter before the world's highest judicial body began as a simple bank robbery on January 7, 1982, when Karl and Walter LaGrand held up the Valley National Bank in Marana, Arizona. In the course of the botched robbery, the brothers stabbed to death Ken Hartsock, the 63-year-old bank manager.

Although they had lived in the United States since ages five and three, respectively, Walter and Karl LaGrand were German nationals, having been born in West Germany to a German mother and American fathers, both U.S. servicemen. Throughout their childhood, the brothers suffered from serious physical and emotional neglect, malnutrition, and illness.

The 1963 Vienna Convention on Consular Relations (VCCR), to which the United States is a party, required Arizona authorities to inform the brothers without delay of their right to assistance from the German Consulate. However, the brothers were not informed of this right. They were subsequently tried, convicted, and sentenced to death. Germany contends that, had the brothers been informed of their rights, the German government would have provided crucial mitigating evidence regarding the LaGrands' troubled upbringing.

The LaGrands appealed their convictions and sentences to the U.S. Supreme Court, which upheld both decisions. However, because the LaGrands had not raised the VCCR violation in state proceedings, the rule of procedural default barred them from raising it on *habeas corpus* review before the federal courts.

Karl LaGrand was executed by lethal injection on February 24, 1999. Then, in an attempt to save Walter, Germany filed a claim before the World Court — only hours before the scheduled execution. Although the Court issued a provisional measure calling upon the United States to "take all measures at its disposal to ensure that Walter LaGrand is not executed," the older brother was asphyxiated in the Arizona gas chamber the following day.

Under domestic law most legal issues would be mooted by the deaths of Karl and Walter LaGrand. However, under international law Germany could still pursue its claim based on the wrong it suffered as a result of the treaty violation. The International Court of Justice (ICJ) is not a court of criminal appeal, but, as the highest judicial body within the United Nations system, the court has jurisdiction over claims of treaty violations.

Germany asked the ICJ to declare not only that the United States breached the treaty by not informing the LaGrands of their rights, but also that the application of the doctrine of procedural default in VCCR cases can lead to a violation of the treaty's requirement that domestic law give "full effect" to the treaty's obligations. Germany asked the court to declare that the United States is under a duty to alter its domestic practice (although the specific changes should be left to the discretion of the United States).

For its part, the United States acknowledged that it violated the Vienna Convention. The American lawyers reiterated previous apologies for the violation of the treaty and reviewed the efforts undertaken by the State Department to improve VCCR compliance. However, the United States also argued that the violation did not prejudice the LaGrands (i.e. they would have been sentenced to death anyway) and that the remedy sought by Germany was unwarranted. The American lawyers argued that based on the text of the treaty and the intent of the parties when the treaty was negotiated, the VCCR does not require countries to modify their domestic laws to reverse convictions or sentences tainted by VCCR violations.

The case was not explicitly about the viability of the death penalty in international law, but it took place in the context of an intense worldwide controversy over capital punishment. While the death penalty is a hotly-debated subject in the United States, western European nations regard the punishment as inhuman. For its part, Germany abolished capital punishment in 1949 and recently has taken a leading role in the worldwide campaign to eradicate the death penalty. U.S. executions are typically met with vocal protests from the European Union, even when no European national is condemned.

How did we, two students with one year of legal training, wind up in the Great Hall of Justice?

In October 1999, barely six weeks into our 1L year, we submitted our applications to intern with Professor Bruno Simma at the International Law Commission (ILC). Although we had not yet taken the basic International Law course, a summer at the UN sounded intriguing. Around the same time we heard about the LaGrands at one of the Law School's "Hot Topics in International Law" discussions and learned that Professor Simma had a significant role in preparing the case for Germany.

In May, after handing in our last exam, we packed our bags for Geneva. Our first day of work, we ambled up the Rue du Lausanne to the Palais des Nations, a massive complex ("the most heavily-utilized conference center in the world," according to UN literature) that sits atop a hill, looking across Lake Geneva toward snowy Mount Blanc, the highest peak in Europe. Peacocks roam the impeccable grounds, adding a regal touch to the bureaucratic ambiance. The placidity provides an ironic backdrop to the discussions of war, crisis, and suffering that transpire within.

The ILC is composed of 34 of the most accomplished lawyers and scholars in the world who meet to "codify and progressively develop" international legal norms. The ILC has been convening annually since 1947 to write the rules that govern international relations. Some of the

commission's most significant projects include the procedures governing treaty interpretation and the draft statute of the International Criminal Court.

Our role was to track the ILC's work on reservations to treaties, diplomatic protection, unilateral acts of states, liability for certain trans-boundary harm, and, most significantly, state responsibility. The rules of state responsibility deal with the ascription of wrongfulness to countries. The rules also catalogue the permissible remedies to redress such wrongful acts. By the end of the summer, we had assisted Professor Simma with a report on the ILC session to be distributed to the Committee of Legal Advisors on Public International Law of the Council of Europe and an article for the *Nordic Journal of International Law.*

Our learning "curve" remained nearly vertical, as every day provided a new insight into some intriguing aspect of international law. For example, from the start, it seemed that a certain gravity emanated from the commission. We learned that this seriousness relates to the very process through which international law is generated. Because international courts and tribunals afford significant weight to the conclusions of publicists and academics (much more, for example, than high courts in the United States), there was a constant awareness that the comments of these 34 experts could be cited to support a particular principle of law in a future case. Indeed, as we later saw in The Hague, both the Germans and the Americans quoted ILC reports to provide authority for their arguments.

Because of its preeminent position in international lawmaking, the ILC is frequently analyzed, quoted, and discussed. Indeed, a constant stream of visitors passed through the conference room, giving us the opportunity to meet lawyers and scholars from around the world. We never knew who we would encounter when we arrived at work: one day it might be a judge from a war crimes tribunal, the next a scholar on maritime law, the next a human rights lawyer, or a mediator from an intergovernmental organization. We even met a few other Americans.

While at times the discussions seemed abstract, we faced a major reality check in June, when the commission took its four-week recess. We accompanied Professor Simma to Germany, where he directs the Institute for Public International Law at the University of Munich, and began working in earnest on the LaGrand case.

At the Institute we met Professor Simma's assistants, who are themselves accomplished lawyers and lecturers. In Germany, legal training resembles a doctoral program more than a professional school, which explains why most of the people we met seemed to be research assistants. (They also seemed to speak at least three or four languages fluently,

The litigants' requests

Here, in capsule form, are the respective claims of the United States and Germany in the LeGrand case before the International Court of Justice.

The **Federal Republic of Germany** respectfully requests the court to adjudge and declare

(1) that the United States, by not informing Karl and Walter LaGrand without delay following their arrest of their rights under Article 36, subparagraph 1 *(b)*, of the Vienna Convention on Consular Relations, and by depriving Germany of the possibility of rendering consular assistance, which ultimately resulted in the execution of Karl and Walter LaGrand, violated its international legal obligations to Germany, in its own right and in its right of diplomatic protection of its nationals, under Articles 5 and 36, paragraph 1, of the said Convention;

(2) that the United States, by applying rules of its domestic law, in particular the doctrine of procedural default, which barred Karl and Walter LaGrand from raising their claims under the Vienna Convention on Consular Relations, and by ultimately executing them, violated its international legal obligation to Germany under Article 36, paragraph 2, of the Vienna Convention to give full effect to the purposes for which the rights accorded under Article 36 of the said Convention are intended;

(3) that the United States, by failing to take all measures at its disposal to ensure that Walter LaGrand was not executed pending the final decision of the International Court of Justice on the matter, violated its international legal obligations to comply with the Order on Provisional Measures issued by the Court on 3 March 1999, and to refrain from any action which might interfere with the subject matter of a dispute while judicial proceedings are pending; and, pursuant to the foregoing international legal obligations;

(4) that the United States shall provide Germany an assurance that it will not repeat its unlawful acts and that, in any future cases of detention of or criminal proceedings against German nationals, the United States will ensure in law and practice the effective exercise of the rights under Article 36 of the Vienna Convention on Consular Relations. In particular in cases involving the death penalty, this requires the United States to provide effective review of and remedies for criminal convictions impaired by a violation of the rights under Article 36.

The **United States of America** respectfully requests the court to adjudge and declare that:
(1) There was a breach of the United States obligation to Germany under Article 36, paragraph 1 *(b)*, of the Vienna Convention on Consular Relations, in that the competent authorities of the United States did not promptly give to Karl and Walter LaGrand the notification required by that Article, and that the United States has apologized to Germany for this breach, and is taking substantial measures aimed at preventing any recurrence; and

(2) All other claims and submissions of the Federal Republic of Germany are dismissed.

leaving us awed and humbled with our stumbling, present-tense-only French.) We were warmly welcomed (in English) to the Institute and treated with the utmost kindness during our stay.

On our first day in Munich, one of Professor Simma's assistants handed us a thick binders containing Germany's 300-page brief for the LaGrand case and the U.S. response. "Read these," he told us, "there is much to do."

Accordingly, with many of the other assistants, we spent the next three weeks analyzing the documents in order to figure out how Germany could best present its arguments before the court in November. Our task was to develop Germany's demand that the United States provide "assurances and guarantees of non-repetition," which are, as we had recently learned, among the remedies available to injured states. Specifically, Germany wanted the United States to develop a systemic way of preventing the "procedural default" problem from recurring. Using ICJ precedent, customary international law, and recent ILC reports, we tried to shape arguments to support Germany's request. Our role was particularly exciting because we drew heavily upon what we had been learning in Geneva about state responsibility. Suddenly, the amorphous concepts we had been listening to became much more real.

When we returned to Ann Arbor for our 2L year, we remained involved with the LaGrand case. While we had been away over the summer, American courts heard several cases with similar breaches of the Vienna Convention. Discussing these decisions with Professor Simma gave us a chance to update our arguments.

The semester was a bit surreal. While our classmates were dry cleaning suits for their on-campus interviews, we were scanning LEXIS for references to "Vienna Convention," "execution" and "LaGrand." Scribbled notes in the margins of our class notebooks contain lists of possible challenges that the United States might raise in November and Germany's best responses to them.

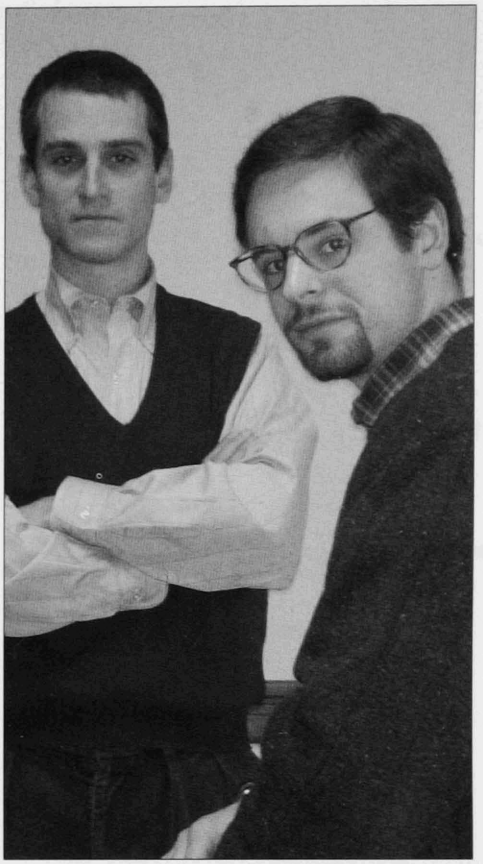
Then, the week before we left for The Hague, Texas executed Miguel Angel Flores, a Mexican national who, like the LaGrands, had not been informed of his right to consular assistance and was thereby prevented from raising the issue on appeal. Mexico and a number of European countries vigorously protested the execution, drawing considerable international media attention. The Flores case was the immediate backdrop for the ICJ's consideration of the LaGrand matter, heightening the drama of the proceedings.

On Monday morning, the Great Hall of Justice crackled with drama. Beneath the vaulted gothic ceiling, wood paneled walls, and brilliant stained glass windows depicting symbols of law and justice, eager journalists scrambled for interviews. The numerous television cameras indicated the global significance of the dispute. (The case was featured prominently on CNN and in the *International Herald-Tribune*, for example.)

Each party had assembled impressive legal teams. Among those sitting with Professor Simma and his two assistants were the legal advisor to the German Foreign Office, an American attorney from DeVevoise & Plimpton, the German ambassador to The Netherlands, and Professor Pierre-Marie Dupuy from Paris, a long-time friend of the University of Michigan Law School, who wore the resplendent red robes that French lawyers wear when they appear before the highest court of their country. On the American side were several lawyers from the State Department, the attorney general of Arizona, a professor of comparative criminal law from Zurich, and faculty members from NYU and Johns Hopkins who specialize in human rights law and international relations.

"Veuillez vous asseoir. La séance est ouverte," announced Judge Guillaume, President of the ICJ.

Continued on page 56



Last summer, second-year law students Noah S. Leavitt and Joshua A. Brook worked as interns with Affiliated Overseas Faculty member Bruno Simma at the International Law Commission of the United Nations in Geneva, Switzerland. They also helped Professor Simma prepare Germany's argument before the International Court of Justice (ICJ) in the LaGrand Case (Germany v. United States). *The case involves two German nationals who were tried and ultimately executed in Arizona without being informed of their right to assistance from the German Consulate as required by the Vienna Convention on Consular Relations. The two students traveled to The Hague in November to observe the proceedings. At press time, the ICJ had not yet announced its decision.*

FEATURE

Continued from page 55

At the table in front of us sat the German team. After a brief introduction by Gerhard Westdickenberg, legal advisor to the German Foreign Office, that stressed the abiding friendship and respect between the two countries, Professor Simma began his arguments. Pressing Germany's demand for assurances and guarantees of non-repetition, Simma argued, "an apology may constitute an adequate remedy in isolated cases but it is neither sufficient nor appropriate if illegal conduct has become a consistent pattern, as is unfortunately the case here."

On Tuesday, the United States presented its response. Nearly every interpretation of domestic and international law was disputed. Although we knew that this was the normal way the arguments would proceed, it was jarring to see how persuasive the American lawyers were. Having been immersed in the German arguments, it was unsettling to hear the intense critique that the United States applied to Germany's position.

By Friday afternoon, we were exhausted, having ridden the roller coaster of litigation. The emotional ups and downs were compounded by our dual loyalties. We often found ourselves wrestling with complex feelings about working for the German team against the United States. On one hand, we were proud to be able to contribute to a case that would put increased pressure on the United States to limit executions, especially since the United States acknowledged committing an internationally wrongful act that may have led to the execution of two people. However, although we share the Europeans' opposition to capital punishment, we sometimes found ourselves resenting other countries' intrusions into American sovereignty. It was uncomfortable to hear our own country condemned, especially given the historical relationship between the two nations.

When we left on Friday, we turned to take a final look at the Peace Palace, dramatically set against a wet North Sea sky, streaks of blue piercing the gray. Busloads of tourists were busy snapping photos of the scene. We paused, trying to retain as much of the week as we could.

That week was the culmination of an incredible year of exposure to and participation in international lawmaking. We had been given the opportunity to learn from a master and had been given access to the hallowed halls of international justice. We marveled at the fact that one year ago we barely knew what state responsibility was.

Two days later we were back in Hutchins Hall, trying to catch up with our coursework. At one level, it was unbelievable that we were back in our assigned seats, as if the LaGrand case had never really happened. Yet, on a deeper level, our classes took on a greater significance. We had more appreciation for concepts such as jurisdiction and statutory interpretation and their relevance to international disputes — indeed, to matters of life and death. And we could not have asked for a better "classroom" than the World Court.

We feel extremely fortunate to have had this opportunity during our legal training and are grateful to the Law School and the Center for International and Comparative Law for supporting programs that enable students to have such experiences. We are especially grateful to Professor Bruno Simma for his mentoring and encouragement.

If you would like to learn more about the LaGrand case, you may visit the Web site of the International Court of Justice at www.icj-cij.org.

Refugee and Asylum Law fellows work on three continents

Five Law School students will join forces with refugee workers in the United States, Europe, and Africa this summer after winning fellowships through the Program in Refugee and Asylum Law.

The students will gain experience and insight by working on a variety of issues, from the repatriation of women to assessing the Zambian government's policies on the detention of refugees and asylum seekers. Each fellow will work with an agency well-known for its work in the field and under the supervision of a ranking agency official.

This year's fellows are Vanessa Bedford, Tracey Glover, Libby Marsh, Barbara Miltner, and Archana Pyati.

Bedford will work in the Policy and Advocacy Division of the European Council on Refugees and Exiles (ECRE) in London. She will do comparative research on international refugee law, answer queries from refugee lawyers throughout Europe, and report on judgments of UN bodies and other agencies that deal with human rights, torture, children's rights, and similar issues.

A graduate of the University of California at Berkeley, Bedford will earn her J.D. in 2002. "When I heard of this fellowship it excited me as much as the first time I read the UN Declaration of Human Rights, and the first time that I saw

Newly named fellows in Refugee and Asylum Law gather with Program Director and Professor James C. Hathaway. From left, front row: Libby Marsh, Hathaway, Archana Pyati; back row, Barbara Miltner, Vanessa Bedford, and Tracey Glover. The fellows will work at refugee and asylum groups in Africa, Europe, and the United States this summer.

lawyering as the pathway to activism that was intellectually challenging," she wrote in her fellowship application.

Glover, who earned her bachelor's degree from the University of Michigan and twice has studied in France, will work in Washington, D.C., with the legal department of the U.S. and Caribbean Region Branch Office of the United Nations High Commissioner for Refugees. She will monitor countries' compliance with the Refugee Convention, draft advisory opinions, and write status recommendations for applicants for protection in jurisdictions that lack specific determination procedures.

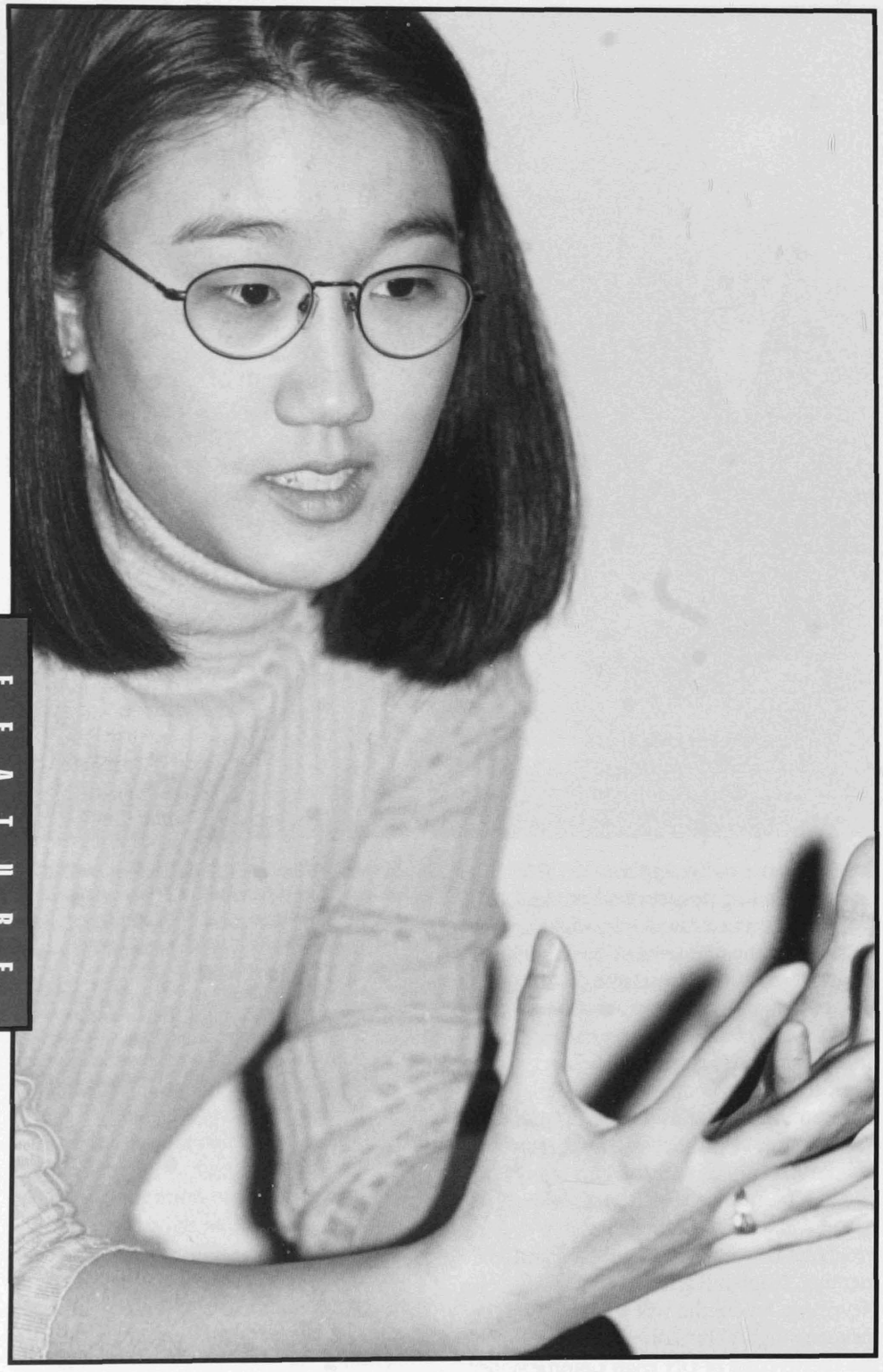
Last summer, Glover was a legal intern at the Tahirih Justice Center in Virginia, a nonprofit agency that specializes in working with asylum claims for immigrant women who are the victims of gender-based persecution. She recounted some of the experience in her application: "The most compelling project that I worked on last summer was a case for an Afghan woman who was persecuted by the Taliban because of her humanitarian aid work. . . . Her story, like so many other refugee stories that I heard this summer, was both devastating and inspiring. Although appalled at what people live through, it was tremendously satisfying to be able to offer comfort to people, and more importantly, to help ensure their safety and freedom from future harm and trauma."

Marsh will join the fellowship program's newest participating institutional member, Human Rights Watch, in New York, where she will work in the Women's Rights Division. She will evaluate the effectiveness of UN High Commissioner for Refugees practices in allowing women

Continued on page 59

A humbling, empowering experience

FEATURE



Amy Liu

Amy Liu watched with more detachment than most of us as the promise of settling the 2000 presidential election bounced like a Ping-Pong ball from court to court.

It wasn't a lack of concern on Liu's part. She was more involved in the race than most of us, in fact. She simply was exhausted.

Taking off a term from law school, she had worked nonstop since summer as part of the advance team that prepared for presidential candidate Al Gore's campaign visits. Eight hours of sleep usually came as the total of two or more nights' rest. One set of five days took her to four states. Working with up to a dozen colleagues, she helped arrange visits to Los Angeles, Michigan, Pennsylvania, Wisconsin, Arkansas, New Mexico, and elsewhere. The advance team would join forces with locally based organizers to arrange each visit. "There were many people in addition to the advance team who worked on the visits," according to Liu.

"You didn't have a lot of free time. You worked long hours," she said. Team members "formed very intense relationships" in the crucible of the campaign.

Like determined contestants battling into the 15th round of a title bout, she and her team always figured that come Election Day their work would end — either in jubilation or despair.

When Election Day failed to decide the election and it became clear that overtime would be played out in the courts, Liu settled back to wait, having come through what she calls a "formative" and "empowering" experience that left her more committed than ever to the democratic process.

"This has been a very empowering experience because I've realized that I — and everyone else — has access to the political process," she explained. "Not only access but the opportunity to affect the political process."

"Many people expected me to come away from this experience more cynical, but it's led to exactly the opposite reaction. I saw firsthand that our government and political system is made up of real people, people who have their daily struggles and successes like anyone else."

"I think we're very lucky in this country, that we have the luxury to be cynical of the political process, but I think that deep down most people aren't as cynical as they pretend to be."

Neither were Law School officials. Liu said that Law School Assistant Deans David Baum, '89, and Charlotte Johnson, '88, were supportive of her decision and very helpful to her when she had to register absentee to resume classes this term.

Before joining Gore's advance team, Liu also had traveled a bit for President Clinton, to Monroe, Michigan, and New York. She felt the significance of her participation perhaps most keenly in New York City, where her father had driven a taxicab and worked at odd jobs after immigrating from Taiwan in the 1960s. Her mother also came to the United States from Taiwan, to which her grandparents on both sides had fled from mainland China with Chiang Kai-shek and his Nationalists in 1949.

Today her parents again live in Asia, in Shanghai, where her father works for an American company. They moved to Hong Kong late in her high school career, and she worked in the island city after college before entering law school.

Now here she was, she said, in the Big Apple, the daughter of immigrants, telling people "I'm here working for the President."

"It's both humbling and a source of pride to know where my family has come from," she explained. And as for working with the White House and the Gore campaign, "It's been a formative experience, and one that has changed profoundly my outlook on the political process."

Enough to push her toward a political career?

"It hasn't made my decision for me," she answers, "but it's certainly given me much more knowledge to make a more informed decision about a possible career."

It also meant, you can be sure, that she listened closely on December 13 as one-time candidates Gore and Bush addressed the nation after the U.S. Supreme Court announced the 5-4 vote that decided the presidential election.

Fellows work

Continued from page 57

to make informed and independent decisions about when and under what conditions to repatriate, with special emphasis on the issue of refugees returning to Afghanistan from Pakistan.

A graduate of Colby College, Marsh also has studied at San Francisco State University and Academy of Art College and participated in the University of Pittsburgh's Semester at Sea program. While in San Francisco, she was a counselor with WOMAN Inc. (Women Organized to Make Abuse Nonexistent), an agency that works with battered women. "I advised all types of women in acquiring restraining orders, finding safe shelter, securing jobs, and generally starting a new life free of the emotional and physical burden of abuse," she said in her fellowship application.

Miltner will work in London, England, with the International Secretariat of Amnesty International. Her work will involve her in monitoring asylum reception policies for countries around the world and linking refugee concerns into the Amnesty International urgent action network.

A graduate of Georgetown University, Miltner enrolled in law school "to gain exposure to human rights law in all its forms, and to understand the mechanisms that respond to individuals in need of protection."

"I am at once fascinated by refugee law and intimidated by it, particularly because of its inherent potential for life-threatening consequences," she noted in her fellowship application. "Despite this challenge, up until now, refugee law is the only type of law I have ever contemplated practicing; it is compelling, fulfilling, challenging, and terribly personal work involving very real risks."

Pyati, a Brown University graduate who worked last summer in Phnom Penh through the Law School's Center for Cambodian Law and Development, will work in Zambia with the Lusaka-based National Office of Jesuit Refugee Service (JRS). Her duties will include assessing the Zambian government's policies on the detention of refugees and asylum-seekers. She also will be involved with JRS' efforts to increase awareness of legal rules among members of the service's prison monitoring project and to devise a strategy to bring detention practice into line with international law.

"International human rights, well documented and agreed upon, are not easily ensured," she noted in her fellowship application. "Pressure from other nations, even through the United Nations, is not always effective, as it can hinder the development that is needed to improve the judicial systems, for example, that would improve government accountability."

"This year, thanks to the generous gift of Ron, '66, and Jane Olson, we have achieved our goal of placing five Michigan fellows in the leading refugee protection agencies in the world," said Professor James C. Hathaway, director of the Refugee and Asylum Program. "This is an extraordinarily talented group of students, with energy and commitment. They will do Michigan proud, and affirm our reputation as a school that is dedicated to sharing our refugee law expertise with the world."

FEATURE

Free James Mawdsley

James Mawdsley, a 17-year jail sent Burma. His 'crime' peacefully draw at to the genocide ac the ethnic minoriti Burma.

Jubilee Campaign your help to bring

"The clock is tickinc certain ethnic grouf If we do not strain (to stop the genocid blood will be on ou hands too"

- James from his

Stop the Karen Genoci

takes direct action to help the oppressed w isn't limited by restrictive ch

PHOTOS COURTESY JARED GENSER

Law student Jared Genser, left, and just-freed human rights activist James Mawdsley celebrate Mawdsley's release from solitary confinement in Burma upon Mawdsley's return to England in October.

'You saved my life'

Jared Genser recalls his involvement in the early morning celebration as being like "an out-of-body experience." It was last October, about 5 a.m., and he was on the list that allowed him to pass quickly through the special heavy security that cordoned this corner of London's sprawling Heathrow Airport.

Only hours before he had been listening to law professors in Hutchins Hall. Now he was part of the select group with security clearance to be the first to greet human rights activist James Mawdsley after his release from imprisonment in Burma. Waiting in the VIP lounge with Genser were representatives of the Jubilee Campaign, an international human rights organization he had worked with to free Mawdsley, members of Mawdsley's family, and representatives from the British Foreign Office.

For Genser, a third-year law student who grew up in the Washington, D.C., area, this trip came as the whirlwind climax to what had been his stubborn, optimistic effort on behalf of a man he might never meet unless Burma's military rulers could be convinced to free him. Mawdsley, a devout Roman Catholic and equally devout opponent of the Burmese government's treatment of its ethnic minorities, had been sentenced to 17 years in solitary confinement for advocating democracy and distributing leaflets in that south Asian country.

The military leaders of Burma, which they call Myannmar, had arrested Mawdsley twice before: In 1998 they arrested him and tossed him out of the country. He re-entered later that year without a passport, was arrested, convicted, and sentenced to five years solitary confinement; he was deported after 99 days.

In August 1999, he entered the country again, legally and openly despite later Burmese claims to the contrary, and began distributing leaflets. He quickly was arrested and said he was "absolutely delighted" when Burmese authorities made him a *cause celebre* by sentencing him to 17 years imprisonment. During the 60 weeks that he spent in solitary confinement, he was beaten, denied pens, writing paper or a radio, given food his parents sent only after it began to rot, and subjected to 24-hour-a-day fluorescent lighting. The round-the-clock lighting damaged his eyes and made it impossible for him to read.

"I paced instead," he told a reporter. "I walked 15 miles a day around the inside of my cell. I wrote two chapters of a book in my head about my experience." He maintained a regimen of 200 physical exercises a day. "I'm probably in better condition now than I've ever been," he quipped when he landed in England. "No fags or beer, and all that fresh mountain air."

Mawdsley was just a name in news reports to Genser when he headed for London last spring to do an externship at the AIRE Centre, a human rights organization whose director, Nuala Mole, is a frequent speaker at the Law School. True, Genser was no stranger to human rights work:

- He had received Amnesty International's Honored Activist Award for his pivotal role in organizing the 50-group, 5,000-person protest of Chinese president Jiang Zemin's visit to Harvard University in 1997.
- In spring 1998, he brought Chinese dissident Wei Jingsheng to speak at Harvard's Kennedy School of Government in response to Jiang's speech.
- A short time later, at the request of the Dalai Lama, he and other organizers of the protest met with the exiled Tibetan leader.
- After his first year at the Law School, he worked for a law firm in Washington, D.C., where he researched the successful asylum claim of a Rwandan woman and helped to draft a brief to the UN Commission on Human Rights' Working Group on Arbitrary Detention on behalf of 26 Sudanese who were put on trial and threatened with crucifixion after a bombing in Khartoum. Although five of the Sudanese were beaten to death while in captivity, Genser's work contributed to the release of the 21 survivors.
- These experiences and his work on Mawdsley's case led him to file his successful application late last year for a Law School Bates Fellowship to continue such work.

At the AIRE Centre in March last year he spotted an article in the *Evening Standard* about Mawdsley, a British citizen. "After seeing the article, I asked my boss, a prominent human rights lawyer named Nuala Mole, if I could contact his parents to see if a petition had been submitted to the United Nations on his behalf," he explained in his Bates Fellowship application. "Not surprisingly, I had an idea for taking his case to the UN Commission on Human Rights' Working Group on Arbitrary Detention because of my involvement in the *Father Hillary Boma Awul* case [in Sudan]. Having seen this process work before, my hope was to duplicate the results for James Mawdsley."

At Mole's suggestion, and because the UN does not require that you be a lawyer to represent someone, Genser took the case with him when he returned to the United

Continued on page 62

Freed human rights activist James Mawdsley, flanked by his parents, answers reporters' questions during a press conference at Heathrow Airport in October after his release from a Burmese prison.

FEATURE

Continued from page 61

States in the summer. Once back in the United States, "I thought it would be helpful to get the support of many senators and members of Congress. This would serve two purposes: 1) spur on the U.S. State Department to get more involved in the case, and 2) light a fire under the British Foreign Office." He peppered congressional staffers with telephone calls, and eventually convinced five senators and 18 representatives to sign the letter.

"Meanwhile, throughout August, I had been regularly lobbying Markus Schmidt, the secretary to the Working Group on Arbitrary Detention. . . . The Burmese were given until August 6 (with an extension) to respond to the petition. They never replied."

Schmidt called Genser late in September to report that the Working Group had ruled that Mawdsley "was being arbitrarily detained under international law on all the counts I had alleged in the petition."

"The allegations, unrebutted, demonstrate the violation of all norms of fair play and justice," the Working Group said. "Mr. Mawdlsey was not informed of the reasons for his arrest; he was detained incommunicado without legal advice or representation; his trial is a mockery of all legal principles applicable in jurisdictions where the rule of law prevails."

Also, the Working Group added, "when he was sentenced for 12 years in relation to his activities in August 1999, his earlier sentence for previous activities in 1998 was revised and he is now to serve a sentence of 17 years. The five years sentence now added is for an offence in which the sentence had earlier been commuted and Mr. Mawdsley been deported. This mode of sentencing is also contrary to all considerations of due process."

As is usual in such cases, Burmese authorities were given an advance look: they received the decision two weeks before it would be made public, on October 10, so they could respond outside of the public arena. They did not respond, but the day after they received the decision, Mawdsley's guards beat him with truncheons and broke his nose.

"Once October 10 came along, I received the text of the judgment, the British demanded James' deportation, the United States did two days later, and Britain cabled about 40 of its ambassadors around the world to request their host governments make a similar demand," according to Genser. "I received an e-mail from the U.S. State Department on the morning of October 16 that James would be released and an hour later a telephone call from the Jubilee Campaign confirming this information. I then bought a ticket to London and quickly got on a plane."

So Genser was among those well-wishers who assembled to greet Mawdsley when he came home at 5:08 that October morning. Looking weary after 416 days in solitary confinement and his long trip home, Mawdsley stepped off the plane still wearing the flip-flop sandals he had worn in prison, trousers supplied by the British ambassador to Burma, and a shirt provided by his mother.

Genser and Mawdsley were about to meet for the first time. "He came off the plane with his mother," Genser recalled. "It brought tears to my eyes, it was very emotional, completely surreal.

"James embraced me, and said, 'You saved my life.' "

"In reflecting over the past few weeks about James' release, it continues to feel like an out-of-body experience," Genser says.

"I cannot believe that international pressure and the decision of the UN provided the British, American, and other governments with the leverage they needed to demand James Mawdsley's release, let alone that the Burmese government listened. While I have had a few moments to celebrate our collective victory, the object of James' protest remains intact — and that is where I wish to focus my next campaign."

Law student, graduate receive Skadden Fellowships

"I am pleased to report that two of our own — one student and one graduate — were awarded Skadden Fellowships to work at public service organizations," Robert Precht, director of the Office of Public Service at the Law School, announced to the Law School community in December. Matthew Drexler, a 2000 graduate, will use his fellowship grant to work with the Lawyers' Committee for Civil Rights in Washington, D.C., while Vivek Sankaran, who graduates in 2001, will join the Children's Law Center (CLC), also in Washington, D.C.

Drexler and Sankaran are the ninth and tenth Law School recipients of this prestigious fellowship since 1995. Both are "alums" of the Law School's Child Advocacy Law Clinic (CALC). The Children's Law Center, where Sankaran will do his fellowship, was founded by another Law School and CALC alumnus, James Marsh, '90.

According to Drexler's grant proposal, he plans "to ensure that civil rights and fair housing obligations are required and enforced in the demolition and redevelopment of public housing where federal funds, such as HOPE VI and the Low Income Housing Tax Credit, are used."

"Through this project," Drexler wrote in his proposal, "I will represent public housing residents and fair housing advocates in up to three communities undergoing demolition and redevelopment of public housing using HOPE VI and other federal funding." Working with the residents and advocates, they will

determine the discriminatory impact that federal programs have caused in the past and may continue to cause in the future.

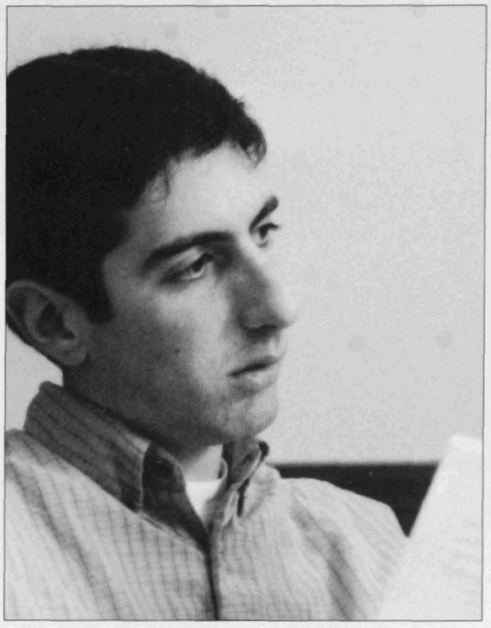
Drexler also plans to litigate a class action case in federal court to establish and enforce non-discrimination mechanisms and provisions in the redevelopment of public housing.

He points out that it has only been through litigation that the federal government and local housing authorities have made any changes in their approaches to the issue of segregation.

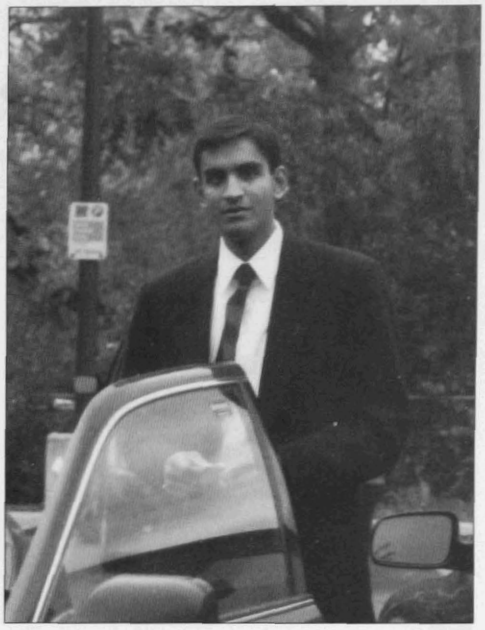
Drexler worked for two years with the New York City Department of Homeless Services prior to matriculating at the Law School. While earning his J.D., he served as a student attorney with the Legal Assistance to Urban Communities Clinic; was a Kellogg Summer Fellow for the Child Advocacy Law Clinic; worked as a legal intern with the Legal Assistance and Defender Association, Juvenile Division; and was a student attorney for the Advanced Clinical Law Program & Family Law Project.

"Housing work is primarily accomplished through working with local communities and community organizations to develop solutions to a particular community's needs. My experience has given me both the inspiration to pursue civil rights law as a career and the knowledge to work effectively with communities to achieve the goals outlined in my project," Drexler's proposal reads.

Finally, Drexler ties the relevancy of public interest work to contemporary society: "Only when public interest lawyers, communities, and its individual members all understand both the law and the community's needs and capabilities, can we together work to formulate effective solutions to respond to individual circumstances. Communities need public interest lawyers who can creatively provide them the legal tools to achieve their goals and meet their pressing needs. I hope that through my project's work with communities to end discrimination in public financing these goals can be realized as well."



Matthew Drexler, '00



Vivek Sankaran

Vivek Sankaran states, "The goal of my Skadden project is to ensure that children who witness domestic violence in Washington, D.C., live in safe and healthy environments." It is shocking to learn that in Washington, "Children are not entitled to court-appointed counsel in custody or domestic violence proceedings, and judges frequently award custody and visitation rights to batterers."

Sankaran's experiences as a volunteer at SafeHouse in Ann Arbor, which is a shelter for battered women and their children, provided him with graphic examples of the needs of the frequently forgotten victims of abuse — the children who see it happening in their homes. At SafeHouse, Sankaran encountered children who suffered from severe development problems after witnessing violence. He also learned about the ways batterers manipulate the legal system in order to gain custody of their children, only to use the children to get back at the survivor.

While working at SafeHouse, Sankaran "also represented abused and neglected children through the Child Advocacy Law Clinic." The clinic provided him with the opportunity to give the children "a voice in the legal system. . . . The experience made me realize the powerful role that the law can play to restore and maintain stability in a child's life."

His realization provided the spark for his Skadden proposal. Now, under the direction of the CLC legal director, Sankaran will serve as a guardian *ad litem* for children exposed to domestic violence in custody disputes and abuse and neglect cases. "In custody cases, my work will focus on crafting custody and visitation orders that ensure the safety of the child and helping the child obtain services, such as counseling, not traditionally available in the proceedings." He points out that "no other organization provides representation for children in these matters." And, in abuse and neglect cases, he will "concentrate on maintaining the stability of the family unit by advocating in support of nonabusing parents, who in protecting themselves, are often accused of failing to protect their children."

Each year, the Skadden program awards 25 fellowships to people committed to furthering law in the public interest.

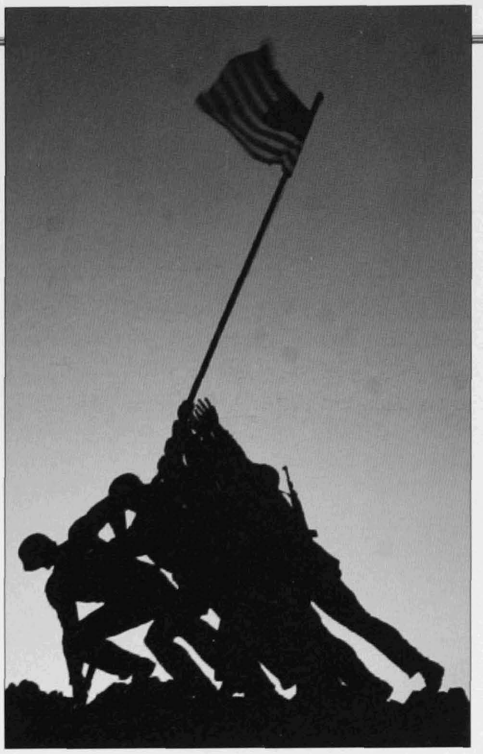
RESCUE & the war story

— By William Ian Miller

The following excerpt is from The Mystery of Courage, *published in fall 2000 by Harvard University Press. Reprint here is by permission.*

It is precisely in the domain of rescue that twentieth-century battle has made its peculiar addition to the styles of the heroic. Our war stories often become rescue stories even when they start out as efforts in the old genre, sometimes, it seems, in spite of themselves. The film *Saving Private Ryan* thus ineptly shifts from a powerful representation of a very particular Normandy invasion to a general story of a rescue mission that could have been situated anywhere. It is in World War I that stretcher-bearers get Victoria Crosses and in Vietnam that medics get their Medals of Honor. General Birdwell, for instance, Anzac commander in the Great War, said that if he had thousands of Victoria Crosses to hand out he would give them all to stretcher-bearers. Nearly one-third of Vietnam Medal of Honor citations allege some kind of rescue purpose, either centrally as in the case of medics and helicopter pilots, or as a motive adding further luster to grand charges and defenses in the conventional style. Admittedly, in the Vietnam War, because of the peculiarities of American strategy, rescue figured more prominently as a standard part of operations than it did in the pitched territorial battles of the world wars and Korean campaigns, but Vietnam simply continues a trend already well established earlier in the century. The virtue of those assigned the task of rescue — medics and stretcher-bearers — rises, it seems, as war becomes more nearly total, so that informal truces to gather in the wounded get harder to establish.

In the Civil War, the Medal of Honor was more likely to be awarded for recovering the regiment's colors; and one who stopped in the midst of a charge to aid a fallen companion was liable to be accused of cowardice or, if serving under Stonewall Jackson, to be executed; the helper was seen to be trolling for a morally worthy excuse to justify not going forward. Abner Small (in *The Road to Richmond*,



Harold Adams Small, ed., University of California Press, 1939) tells of another soldier of suspect courage at Fredericksburg, this one, however, blessed with very strong legs:

> In company F was a solider named Oliver Crediford, a large man, of great physical strength. A fellow soldier named Levi Barker fell wounded, and Crediford picked up Barker and started for the rear.
>
> "Crediford!" the captain shouted. "Come back into the ranks! Leave that man where he is!"
>
> "Cap'n," he shouted back, "you must think I'm a damn fool to let Barker die here on the field."
>
> He kept on going and was seen no more in the battle. If he kept his head to save his skin, I suspect he was the only man that did.

But within 50 years not stopping to rescue begins to require some justification. When R.H. Tawney abandons a wounded man at the Somme he suspects his own motivation for moving *forward*: "I hate touching wounded men — moral cowardice, I suppose. One hurts them so much and there's so little to be done. . . . So I left him. He grunted again angrily, and looked at me with hatred as well as pain in his eyes. It was horrible." Cowardice either way, but with a clear sense that the failure to rescue requires some excuse beyond merely alleging the duty to continue moving forward. Frederick Manning captures nicely the resentment the men start to feel when an order not to stop to aid a stricken comrade is issued the night before going over the top. The troops find it evidence of the callousness of the rear echelon to their plight. Says one character: "The bloody fool that wrote that letter [ordering them not to stop to help the wounded] doesn't seem to know what any ordinary man would do in the circumstances. We all know that there must be losses, you can't expect to take a trench without some casualties; but they seem to go on from saying that losses are unavoidable, to thinking that they're necessary, and from that, to thinking that they don't matter." Still, the motives of someone not specifically assigned the duty of rescue remained suspect when he halted his advance to aid a stricken comrade. There was a difference between coming in from danger to escort a wounded man to safety and going out to pull him in. Thus the wry voice of an officer on the Marne: "A few slightly wounded men approached, each attended by two or three solicitous friends. . . . These willing helpers were gently pushed back into the fray."

By casting our heroic stories as narratives of rescue are we arguing for a kinder heroic ethic, life-saving rather than life-destroying? Are we witnessing the democratizing of courage and the heroic on the battlefield as we saw courage earlier expanding to include the constant, patient, and persevering? Medics need have no special physical attributes or martial skills. Indeed they are every man or could be every woman, and as such they hold for all of us the possibility of grand action, even if we do not have the body of Ajax or the ability to kill other human beings when it is in our best interests to do so.

Who, after all, got assigned to these rescue details but the worst shots, the meek, the gentle, the miserably unmartial, the musicians, those, that is, whose bodies and style did not predict the usual kind of courageous soul? Take for example this portrait of Corporal Side:

Continued on page 66

Continued from page 65

Side is a remarkable soldier. He looks less like a soldier than any man I have seen in France, and that is saying a good deal. He is short, cross-eyed, bandy-legged, and has a preference for boots and clothes sizes too big for him. In civil life I believe he is a rag picker, and the character of his profession adheres, as it will, to the man. He joined the battalion two years ago as a stretcher-bearer, and on the first of July carried stretchers under fire continuously for twenty-four hours. Anyone who knows the weight of a loaded stretcher and remembers the heat, the condition of the ground, and what the firing was like upon that day, will agree with me that the Victoria Cross would have expressed rather less than Side's deserts. However, he for his bravery was promoted to full corporal in the fighting ranks.

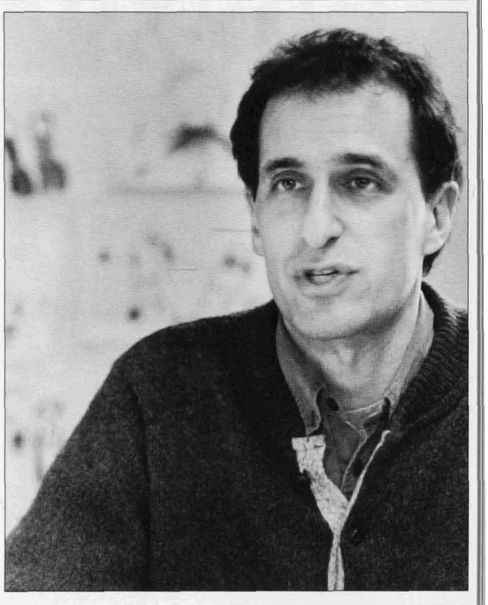
These jobs required more exposure to fire than even the fighting men faced. The medic, as more than one Medal of Honor citation reveals, must hold up the plasma bag in the free-fire zone. Stretcher-bearers must suppress all urges to hit the deck amidst exploding shells, lest they kill their cargo. And each time they come out, they must muster the will to go back into the inferno for another load.

Part of the explanation for the rise of the heroics of rescue is more homely, I think. Rescue comes to dominate as the style of mechanized warfare allows for less opportunity for individual heroic acts in the old style. The distances separating combatants increase; opportunities for glorious charges and single combat become rarer, and in the case of Vietnam there were very few conventional battles to generate conventional heroics. The only humans seeking immediate attention, who can look you in the eye, are comrades to aid, not enemies to kill, for these have become invisible. In the conditions of mass dehumanizing warfare, the rescuer and indeed the rescued are rehumanized, reindividualized. Rescue also becomes more rational, in spite of the irrational obsession with it, when medical care rises to a level at which the wounded are likely to survive if saved, although that hardly explains the rescue of corpses, as ancient a motive for grand action as there might be.

Rescue involves special rules; it is almost as if it touched on something as deeply instinctual as self-preservation; thus, Robert Graves says a soldier would run a 1.0 risk of death to save a life, even 1 in 20, in certain circumstances, to pull in a wounded enemy. Rescue has a magical power to motivate action. John Keegan notes how difficult it is to get armies to overcome the inertia that self-protection imposes without recourse to some higher object than holding ground or getting new ground to hold: "That higher object is the rescue of comrades in danger." Some have suggested that there is a basic human need to help as much as there is a basic need for help.

The special nobility of rescue seems to immunize it from certain contingencies of success or failure. The glory of the medic who rushes out to save a man who is beyond saving is not tarnished by the ultimate futility of the deed. Whether the practical goal is accomplished or not bears no relation to the worthiness of the risk undertaken. Not so the courage of attack, and to a somewhat lesser extent, defense. There the merit of the deed is tied up in some quite complex way with the success or failure of the enterprise, with its practical purpose. More medals are thus awarded for deeds that lead to victory than for equally grand action that has the misfortunate to take place in the context of a general defeat. Glorious defeat is a rather narrow category; most defeats are clouded in suspicions that the general level of courage was not sufficient to the demands of the situation. Going down grandly in defeat is delicately contingent on several key variables that mark the thinnest difference separating glorious failure from dark comedy.

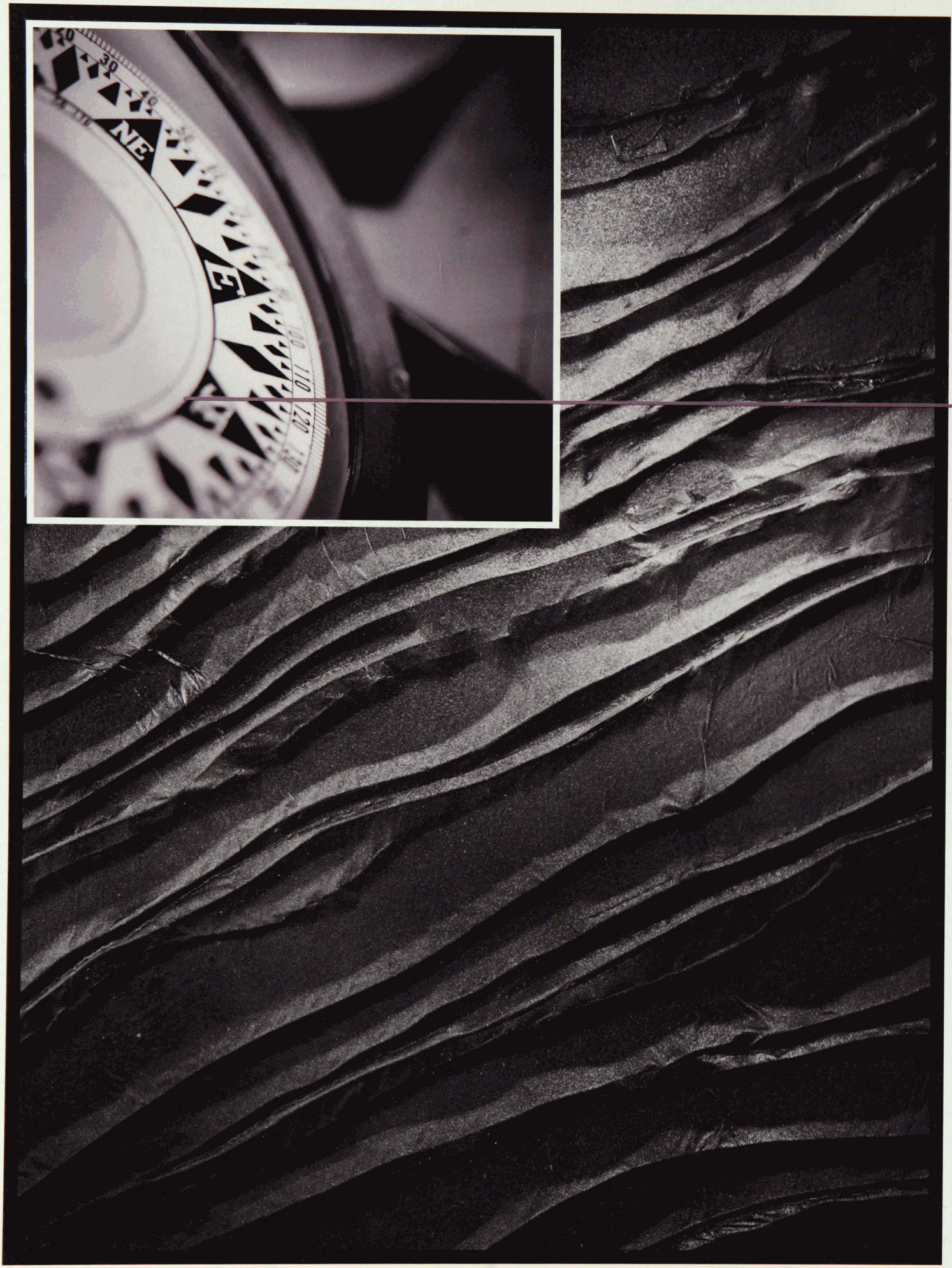
To risk life to give life or comfort seems to have a special motivating power for soldiers, who must welcome the opportunity to have their courage manifest in something other than the destruction of life. The ascendance of the rescue narrative can be seen as the continuing expansion of courage into kinder areas even if such kindness takes place in an inferno of shellfire. But so to shift courage's terrain may also transform, if not utterly then at least subtly, courage's substance and inner life. Philip Caputo in a eulogy to his friend Levy, who died trying to rescue a man who was "beyond saving" makes Levy all that is



William I. Miller, *the Thomas G. Long Professor of Law, holds a Ph.D. (in English) and a J.D. from Yale University. He has written extensively on the blood feud, especially as it is manifested in saga Iceland. In the last few years he has turned his attention to the emotions of social and moral stratification and most recently to at least one virtue — courage, which provides the theme of his latest book:* The Mystery of Courage *(Harvard University Press, 2000). Other books include* The Anatomy of Disgust *(Harvard University Press, 1997) (chosen best book in anthropology/ sociology by the Association of American Publishers);* Humiliation *(Cornell University Press, 1993; paperback 1995); and* Bloodtaking and Peacemaking: Feud, Law, and Society in Saga Iceland *(University of Chicago Press, 1990).*

courage and sacrifice: "Yours was the greater love. You died for the man you tried to save." Caputo, bitterly and in a way that recalls Christ doubting whether his father had forsaken him, has Levy die *pro patria*. "It was not altogether sweet and fitting, your death, but I'm sure you died believing it was *pro patria*. You were faithful. Your country is not." Rescue makes battle become the place for courage as an imitation of Christ, dying to save others, in which courage becomes love, but without Christ's knowledge that he held the winning hand, more than an imitation then, a true surpassing.

Part of the unfathomability of this soldierly greater love is that his self-sacrifice is not for a friend, but for a comrade. There's a difference. Friendship, according to one soldier, "implies rather more stable conditions" than comradeship, which seems to be characterized by "a spontaneous and irreflective action . . . at one moment a particular man may be nothing at all to you, and the next minute you will go through hell for him. No, it is not friendship." Another wonders at the mystery of the soldier who "will rescue a wounded man under heavy fire to whom an hour before he would have refused to lend sixpence." Comradeship arises in a field of pain and misery and is largely bounded by it: friendship occupies softer and more pleasant terrain. Friendships can exist for a lifetime without ever having the issue of such ultimate sacrifice be any more than a dimly and romantically imagined hypothetical. Soldierly comradeship, in contrast, exists primarily against a backdrop of shared misery or danger. Like courage, comradeship is mysterious, or just baffling, in a way that friendship is not.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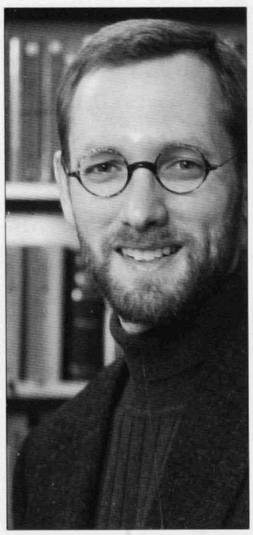
TIES ACROSS THE SEA

a partnership in legal education

— By Mark D. West



A FRIEND OF MINE WHO TEACHES JAPANESE LAW at another law school once recounted to me his academic job-search story. When he was "on the market" in the mid-1970s, several schools expressed interest, thanks at least in part to his unique Japan-flavored resume. Other schools didn't quite know what to do with him. At one prominent school, he was flatly rejected on the grounds that the school's need was not for a specialist in Japanese law, but for a specialist in comparative law. I think at that time they must have thought him to be somewhere between quaint and alien.

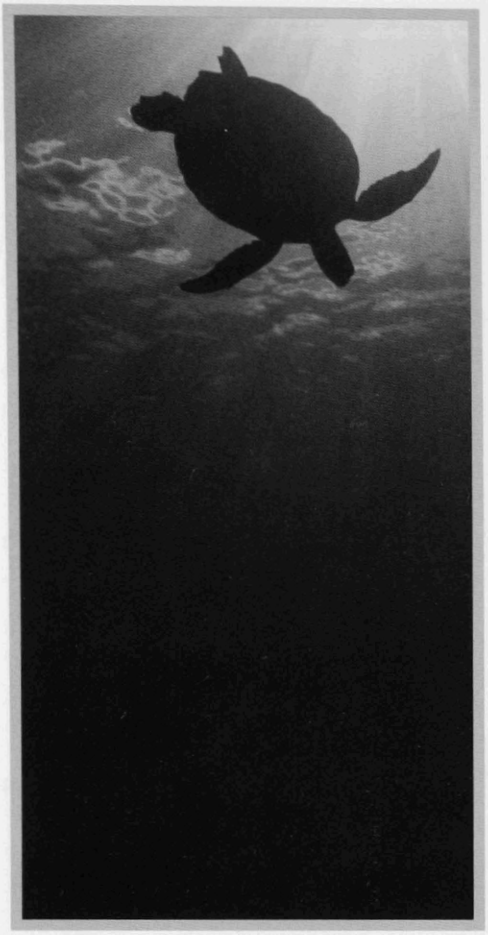
Much has changed in the past 25 years. Many more lawyers deal regularly with Japan, scholars are more interested in learning lessons from the comparative study of Japanese legal institutions, and students realize the value, both in the academic sense and in the real-world employment sense, of formal study of Japanese law. The University of Michigan Law School has embraced this change. Thanks in large part to a faculty exchange program with the University of Tokyo, most of my colleagues have taught in one capacity or another in Japan. Many others make regular visits to do research, lecture, and consult. Such faculty experience is one reason why I believe that outside of Japan, the best place in the world to study Japanese law is Ann Arbor, Michigan.

The following three articles reflect some of my colleagues' recent activities in Japan. The first, by Rob Howse, discusses the Japan-U.S. whaling dispute from a World Trade Organization perspective. The second, by Rick Lempert, a frequent commentator and author on Japanese lay participation, discusses costs and benefits of citizen participation in the legal system, focusing particularly on juries. The third, by Ronald Mann, is a comparative institutional analysis of the differences in credit card use in Japan and the United States.

In these three articles, the authors bring to bear their formidable skills as scholars of U.S. and international law to analyze issues and problems that affect Japan. None of them claims expertise in Japanese law, but such expertise is not always required. Both Japanese and American audiences have much to gain from hearing the opinions of experts trained with the type of legal and analytical skills that are so highly valued and cultivated in the United States.

For me, as a teacher and student of Japanese law, there are additional advantages to being surrounded by people like Howse, Lempert, and Mann. Unlike my friend who sought a law school teaching job 25 years ago, my colleagues "get it." Most of my colleagues not only understand the value of studying law and legal institutions in Japan, but, as the following articles show, they also share the curiosity that motivates me to do it. Some may nevertheless find me unusual, but I'm pretty sure it's not solely because I study Japanese law.

Assistant Professor of Law **Mark D. West** *directs the Law School's Japanese Legal Studies Program.*



CAN TURTLES TEACH ABOUT WHALES?

The following essay, which discusses the trade and environment jurisprudence of the World Trade Organization and its implications for the Japan-U.S. whaling dispute, is excerpted from "Multilateralism, Unilateralism, and Bilateralism in U.S.-Japan Trade Relations: A WTO Law Perspective," a paper the author delivered at the conference on Japan-U.S. trade relations, held at Keijo University, Tokyo, last spring. A complete copy of the paper, which discusses two additional WTO cases, one involving the European Union challenge to Section 301 of the U.S. trade legislation, and the other involving the Canada-U.S. Auto Pact, is available from the author or from Law Quadrangle Notes.

— By Robert L. Howse

In *Turtles*, a case arising in the late 1990s, the WTO Appellate Body (AB) considered an appeal from a panel that found a U.S. embargo of shrimp fished with turtle-unfriendly technology a violation of Art. XI of the GATT, and not justifiable under Art. XX. Much along the lines of the earlier *Tuna/Dolphin* panels, the panel in *Turtles* basically excluded from the possibility of Art. XX justification unilateral trade measures targeting environmental practices or policies in other countries as *per se* inconsistent with the spirit or character of the multilateral trading system. (In this case, unlike the *Tuna/Dolphin* cases, the panel had relied in a very loose and imprecise way on the language in the preambular paragraph of Art. XX, or "chapeau" about "unjustified and arbitrary discrimination.")

Upon appeal, the AB took a very different approach. It viewed unilateral trade measures targeting other countries' policies as in principle capable of justification under the particular heads of Art. XX (in this case, exhaustible natural resources) and made the strong statement that: "It is not necessary to assume that requiring from exporting countries compliance with, or adopting certain policies (although covered in principle by one or another of the exceptions) prescribed by the importing country, renders a measure *a priori* incapable of justification under Article XX." However, in examining whether the U.S. embargo was in relation to the conservation of exhaustible natural resources, the AB body raised, without answering it, the question of whether some kind of territorial nexus between the country taking the measures and the resources being conserved was necessary to satisfy the requirement that the measures be "in relation to exhaustible natural resources." The AB considered that it was not necessary to answer this question, because even *if* such a nexus were required, it would be satisfied in this case, apparently by virtue of the fact that some of the endangered species of sea turtles migrated through U.S. territorial waters. But what if none of the turtles swam through U.S. territorial waters? Would the AB have viewed the "commons" nature of the endangered species, as reflected in relevant international agreements, as a sufficient nexus with U.S. interests, again assuming one is actually required? It is possible that the AB body was divided on whether a nexus was required, and what kind of nexus it might be. Perhaps the AB, or some of them, were groping towards something equivalent to the "effects" doctrine in international antitrust.

Having found the U.S. embargo to be justified under Art. XX(g), the AB went on to consider whether the United States had met the requirement under the "chapeau" of Art. XX that the measure not be *applied* "in a manner that would constitute arbitrary or unjustified discrimination between countries where the same conditions prevail, or a disguised restriction on international trade." Here, the AB found several elements of arbitrary or unjustified discrimination in the application of the scheme: the U.S. had

engaged in serious negotiations with some countries to deal with its conservation concerns but had not made comparable efforts with the complainants in this case; although the statute provided flexibility as to what equivalent technologies employed by other countries' shrimpers could satisfy the requirement of turtle-friendliness, when the scheme was *applied*, all shrimp not caught with the U.S.-prescribed TED technology were embargoed; and customs decisions on which shrimp could be imported, and which not, under the scheme were apparently arbitrary and non-transparent. The AB strongly implied that the straightforward extraterritorial application of domestic environmental regulation, indifferent to divergent conditions that prevail in different countries, would be unlikely to satisfy the requirements of the "chapeau." It suggested that the detailed application of embargoes of this nature would be judged against the expectation (found within certain international environmental agreements themselves, e.g., the Rio Declaration) that a state would not normally resort to unilateral action of this kind without having first seriously attempted to enter into negotiations with the other state(s) concerned, in order to find a way of achieving the environmental objectives in question in a manner consistent with the different conditions prevailing in the other state(s).

While being faithful to the entire text of Art. XX, which does not *per se* exclude such unilateralism, the AB arguably struck a balance that is beneficial to the enhancement of multilateral or plurilateral cooperation to solve environmental commons problems. On the one hand, a state that contemplates unilateralism cannot go forward with it — as an automatic reflex, as it were — without being prepared to make a significant investment in the attempt to achieve a cooperative solution, which includes addressing different conditions in the other countries that may make them justifiably reluctant to adopt U.S. environmental standards. On the other hand, a state or states that refuse to enter into serious negotiations and frustrate cooperative solutions to environmental commons problems will not be protected against unilateralism by WTO law. In sum, the effect of the balance struck in *Turtles* is to create significant incentives for all sides caught in a trade and environment dispute to negotiate.

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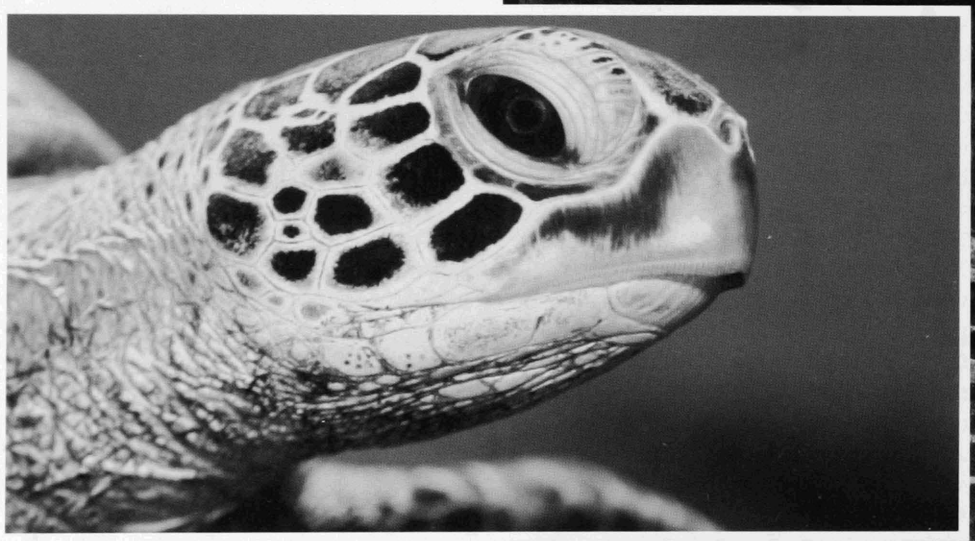
The *Turtles* ruling has significant implications for the current dispute between the United States and Japan with respect to whaling. Whales are an endangered species, protected under a multilateral environmental agreement to which both the United States and Japan are signatories, The International Convention for the Regulation of Whaling. Under the Convention, the International Whaling Commission (IWC) may impose restrictions on whaling to safeguard whales as an exhaustible natural resource. Such decisions are to be taken by supermajority vote. Pursuant to these procedures, the Commission has enacted a moratorium on whaling. However, Art. V:3 of the Convention allows individual signatories to lodge objections to decisions of this kind by the IWC, within a specified time frame, with the result that the decision in question is not binding on that signatory. Thus, Norway has engaged in commercial whaling subsequent to the moratorium, pursuant to an objection that it filed within the required time period. While Japan did not file such an objection, it has for some time vigorously opposed the moratorium, arguing that there is scientific evidence that a complete ban on commercial whaling is no longer necessary to protect the viability of the species. Japan's manner of protesting the moratorium has been to engage in killings of whales for purposes of scientific research, which is permitted under an exception to the Whaling Convention. Under the practice of the Commission, this exception is interpreted narrowly; its guidelines in effect create a least restrictive means test, asking whether the research result could be achieved by non-lethal means, and also whether the sought research results are actually required for legitimate scientific purposes. When Japan's proposal for much expanded scientific research-based killings of whales was examined in the Scientific Committee of the IWC, the opinion of scientists was deeply divided as to whether the proposed activity would meet the guidelines for application of the exception, and the Committee was unable to endorse the Japanese proposal as consistent with the exception in Art. VIII of the Convention. Accordingly, the IWC promulgated a resolution stating that "gathering information on interactions between whales and prey species is not a critically important issue which justifies the killing of whales for research purposes" and that "information on stock structure, which may be relevant to management, be obtained using non-lethal means." Therefore, the Japanese government was urged to refrain from issuing the permits proposed under its program.

Japan, however, refused to comply with the resolution and proceeded to issue permits for the whaling in question. After expressing U.S. concern through subtler measures of diplomatic pressure, President Clinton, finally, in the fall, announced one sanction against Japan — a prohibition on Japanese fishing in certain U.S. waters — and the administration is currently considering trade sanctions pursuant to the Pelly Amendment. The Japanese government has made suggestions that it could commence a WTO action in the event that trade sanctions are imposed.

How would such a dispute be resolved under WTO law as interpreted in the *Turtles* case? There would be obviously no difficulty in characterizing the whales as exhaustible natural resources within the meaning of Art. XX(g). What, however, of the requirement that there be a rational relationship or connection between such sanctions and the protection of whales as an exhaustible natural resource? In the *Turtles* case, the AB found that such a rational relationship could exist where the trade measures were designed to "influence countries to adopt national regulatory programs" that would serve the protection

of the endangered species. However, it also seemed important to the AB that the U.S. measure was designed (although not applied) in such a manner as to permit entry into the United States of shrimp that were caught in a turtle-friendly manner, rather than being a prohibition on *all* shrimp from *jurisdictions* that catch shrimp in a turtle-unfriendly manner. From an observation along these lines, the AB concluded that "it appears to us that Section 609, *cum* implementing guidelines, is not disproportionately wide in its scope and reach in relation to the policy objective of protection and conservation of sea turtles." Now here the AB does not actually say what *would* have been disproportionately wide in scope and reach. Given that the AB actually accepts that measures that operate through suasion of other governments in their policies have a rational relationship to the objective in question, it could not come to the



conclusion that a ban on all shrimp would necessarily be "disproportionately wide" in scope and reach, if such a ban could reasonably be viewed as appropriate to the kind of suasion at issue. Trade in whale meat and by-products is already banned by virtue of the Convention on International Trade in Endangered Species (CITES). Thus, the statement of the AB in *Turtles* leaves us wondering what additional measures *would* be disproportionately wide in scope and reach. What about import restrictions on Japanese automobiles? Or television sets? In the *Reformulated Gasoline* case, the AB severely criticized the panel below for interpreting the language "relating to" in Art. XX(g) in such a way as to assimilate the kind of fit required between a measure and objective in the case where the treaty language used the word "necessary" to the kind of fit required in the case of Art. XX(g). So we know from *Reformulated Gasoline* that the AB cannot have in mind here a test as strict as that of least-restrictive-means.

My sense is that what the AB is saying here is that the trade restricting scheme must be rationally coherent in light of the objective it purports to serve. Such rational coherence might be undermined, for example, if the scheme sanctioned Japan not only for killing whales but also other species not endangered or not protected as such under international law. Such coherence could also be undermined if the choice of imports to which the sanctions apply were chosen in such a way, not to maximize appropriate commercial pressure on Japan, but to maximize protective rents to domestic American producers for whom the products in question represent fierce import competition. Another example might be a case where the scheme provides for the sanctions to continue, say, for six months after the offending conduct has been discontinued. Such an extension could be regarded as punitive or protectionist or both, but not as well-tailored to the goal of inducing the other state to engage in the desired conservationist behavior.

Thus, the recommendations of the commerce secretary to the president should take into account the AB's concerns that measures under XX(g) not be disproportionately wide in scope and reach, by designing a scheme that avoids features not well-tailored or closely connected to the goal of stopping the offending whaling, or which would seem to allow other purposes or goals (protection of domestic industries) to intrude into and disrupt the means-ends coherence of the overall scheme. Discussion so far appears to revolve around restricting imports of Japanese fish products into the United States. To the extent that the dispute revolves around Japan's fisheries practices, and more importantly to the extent that these are not products that are in competition with domestic U.S. production, this seems a sensible approach. To the extent that products that are in competition with domestic U.S. production cannot be avoided for the sanctions to have the needed impact, the import restrictions could be balanced by export restrictions, say of pollock and salmon. Thus, any protective benefit to U.S. producers in the fisheries sector could be balanced by an at least equivalent burden to those producers (and the export restrictions would put further pressure on Japan, because these are products favored by Japanese consumers).

A different challenge posed by this dispute for WTO law is that Japan may possibly argue that the U.S. measures are not rationally related to conservation of exhaustible natural resources, because the Japanese practice at which they are targeted does not impair the conservation of those resources. Here, Japan would present the scientific evidence that it claims to be able to muster that certain whale populations have increased to the point where takings are not endangering. Could one really say that the "scientific" killings, even on the scale now engaged in by Japan, make a real difference as to whether the species are endangered or not?

But it only takes a moment's reflection on the "tragedy of the commons" to appreciate the speciousness of such a potential line of argument. The tragedy of the commons does not occur because an individual user, unconstrained, depletes the commons to the point of exhaustion — indeed an individual user might well have enough incentives in terms of future availability of the commons resource to itself, not to deplete to that extent. The tragedy occurs because the unconstrained, or uncoordinated exploitation of the commons by multiple users has the combined effect of exhausting the commons resource.

The real issue, therefore, is the relation of the conduct being sanctioned to the collective management of the commons resource in question with a view to avoidance of a tragedy of the commons. Refusing to abide by a resolution of the IWC that suggests its conduct falls outside of what is permitted under the multilateral regime for the management of whales as a global commons resource, Japan has effectively defected from a cooperative approach to the management of this commons resource. Where defections go unsanctioned, such regimes of multilateral cooperation may well unravel. In sanctioning such defection, the U.S. measures would be rationally related to preserving a multilateral regime for the conservation of whales.

The application of the U.S. measures would also have to be consistent with the "chapeau" of Art. XX. Here, it should be recalled that in the *Turtles* case, the AB found "unjustified discrimination" within the meaning of the "chapeau" because the U.S. scheme was applied differently to the complainants than to some other countries. One source of consternation in Japan about the possibility of United States trade sanctions is that the United States has not sanctioned Norway, which actually has an active commercial whaling industry, having reserved against the obligation to implement the IWC moratorium, as noted above. Despite its reservation, the IWC has also promulgated a resolution urging Norway to stop whaling. Is, then, the application of trade sanctions pursuant to the Pelly Amendment against Japan but not Norway "unjustified discrimination" within the meaning of the "chapeau"? I do not

believe so. The meaning of "unjustified" must be read in light of the Rio Convention objective of advancing multilateral, cooperative solutions to environmental commons problems, noted by the AB in *Turtles*. However objectionable Norway's behavior may be from the perspective of conservationist values and policies, Norway is not "cheating" or defecting from the relevant multilateral regime. Japan is using a "loophole" in the Convention that the IWC has determined that it is not entitled to use under the circumstances, and is thus threatening the coherence and integrity of that regime. Norway is operating under an objection or reservation to the IWC decision on a moratorium, which it is legally entitled to, under the terms of the treaty itself. I believe the United States is justified in taking into account this difference in the character of the two countries' behavior from the perspective of sustaining the legal and institutional framework for cooperative management of the exhaustible resource in question.

It is true that Japan questions, not without some justification, the premise of the current approach of the multilateral regime, i.e., whether a ban is any longer necessary for preservation of the species in question. The IWC itself, since 1994, has been developing an alternative approach, based upon catch limits set in light of best available information on the situation with regard to individual species. However, there are considerable uncertainties in estimates of whale populations. Therefore, in the absence of solving issues with respect to the reliability of data, it is understandable that the IWC has yet to implement this alternative approach; this could be said to reflect the precautionary principle, which the AB, in *Hormones*, viewed as an established principle of international environmental law, albeit not of international law more generally.

In any case, the bargaining costs of obtaining agreement among a range of state actors with divergent interests on specific catch limits could be sufficiently high that a moratorium might remain the most efficient rule, even if, in a world where bargaining costs were zero, the optimal conservation rule would rather consist of more specific limits on takings.

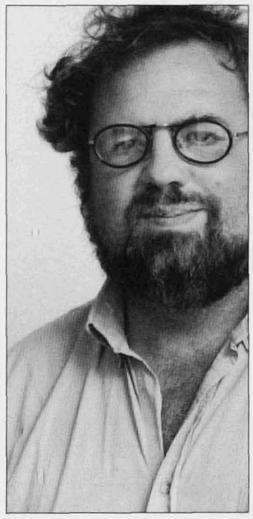
Robert L. Howse *came to Michigan from the Faculty of Law at the University of Toronto, where he was a faculty member from 1990 to 1999. An internationally recognized authority on international trade law, Professor Howse received his B.A. in philosophy and political science with high distinction, as well as an LL.B., with honors, from the University of Toronto. He also holds an LL.M. from the Harvard Law School and has traveled and studied Russian in the former Soviet Union. He has been a visiting professor at the University of Michigan Law School and at Harvard Law School, and taught in the Academy of European Law, European University Institute, Florence. He is a member of the faculty of the World Trade Institute, Bern, Switzerland, and an International Fellow of Canada's C.D. Howe Institute.*

Professor Howse is a frequent consultant and adviser to government agencies and international organizations such as the OECD, and has undertaken studies for, among others, the Ontario Law Reform Commission and the Law Commission of Canada.

While completing his LL.M., he served as a research assistant to Laurence Tribe on a project advising the Civic Forum of Czechoslovakia on constitutional reform, and as a research assistant to Paul Weiler on a project involving tort law reform and public policy. He has also held a variety of posts with the Canadian Department of External Affairs and the Canadian Embassy in Belgrade. Professor Howse serves on the editorial advisory boards of the European Journal of International Law *and of the Amsterdam-based journal,* Legal Issues in Economic Integration.

His research has concerned a wide range of issues in international law, and legal and political philosophy, but his emphasis has been on international trade and related regulatory issues. Professor Howse is the author, co-author, or editor of five books, including Trade and Transitions; Economic Union, Social Justice, and Constitutional Reform; The Regulation of International Trade, *first and second editions;* Yugoslavia the Former and Future; *and* The World Trading System; *and he is also the co-translator of Alexander Kojève's* Outline for a Phenomenology of Right. *He has also published many scholarly articles and book chapters on topics as disparate as NAFTA, whistleblowing, industrial policy, food inspection, income tax harmonization, and ethnic accommodation.*

Most recently, he is co-editor (with Kalypso Nicolaidis of Oxford and Harvard Universities) of The Federal Vision: Legitimacy and Levels of Governance in the EU and the U.S., *forthcoming from Oxford University Press in the summer of 2001.*



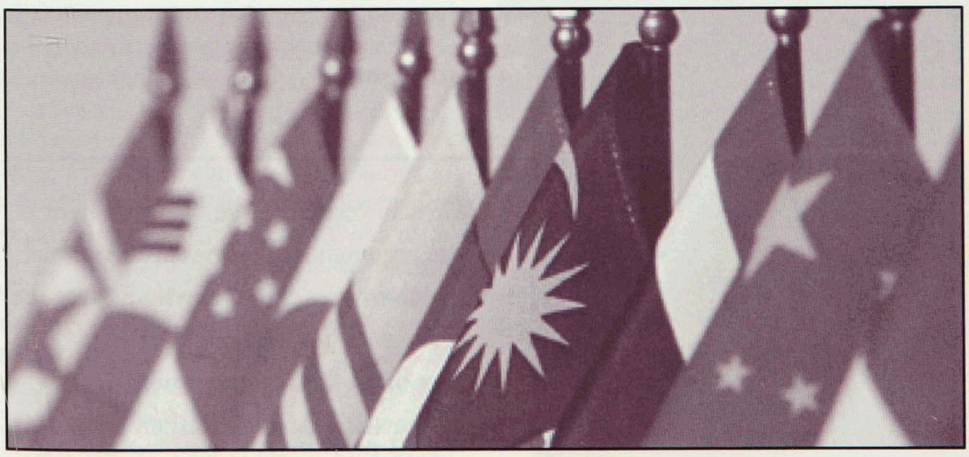
The following essay is based on a talk delivered last summer at an international conference on lay participation in criminal justice decision making organized by the Federation of Japanese Bar Associations, which held sessions in Tokyo, Osaka, and Kyoto. This talk was given in Tokyo. Speakers were from Argentina, Brazil, Denmark, France, Germany, Ireland, Japan, Russia, Spain, and the United States.

— By Richard O. Lempert

JURIES: INVESTMENTS IN DEMOCRACY

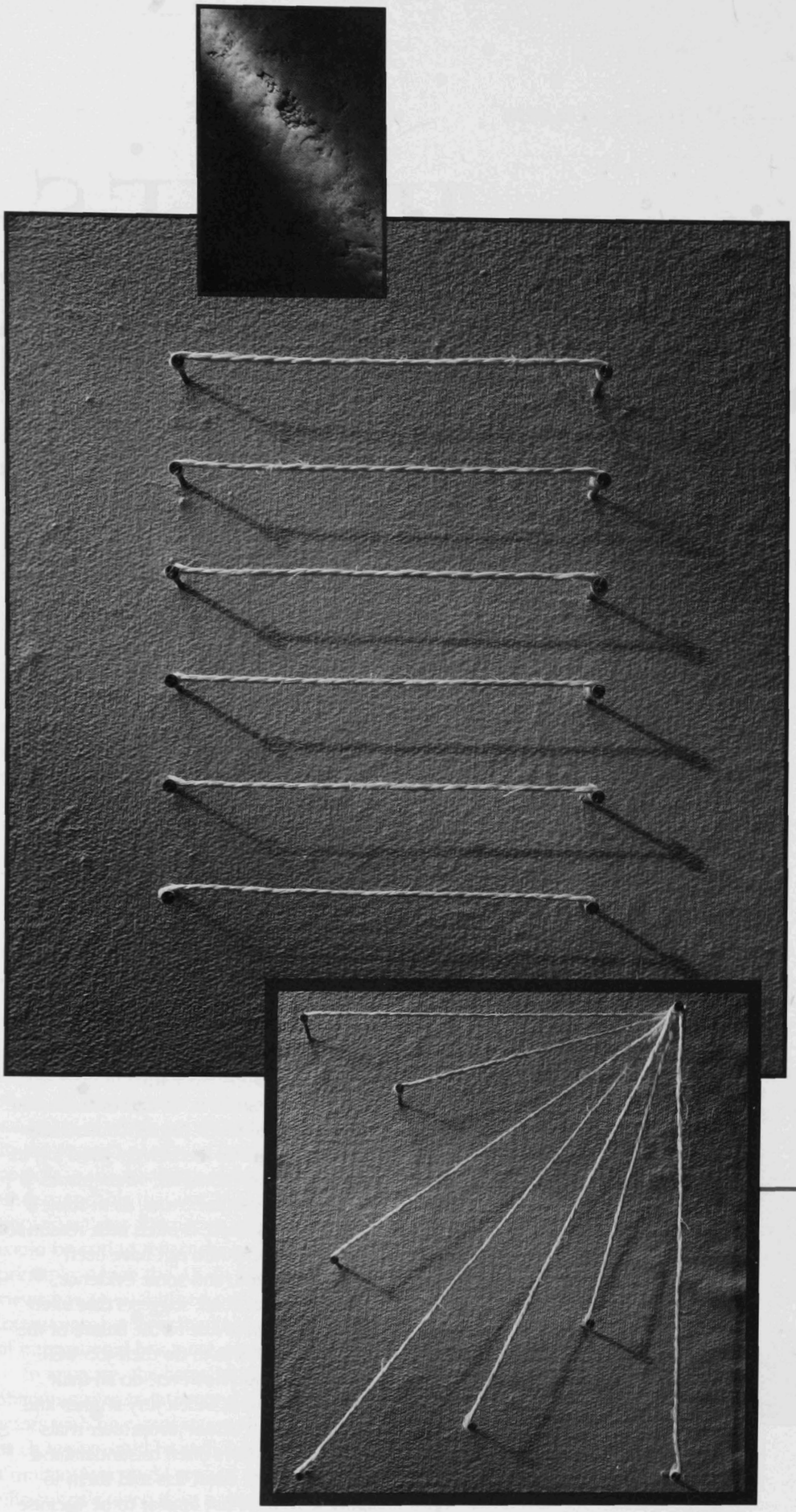
The topic I have been asked to address at this conference is "Why should citizens participate in the administration of justice?" An easy answer is that citizen participation is unavoidable. Citizens today participate in the administration of justice, as plaintiffs and defendants, as witnesses, as police officers who make arrests, as court staff and, of course, as lawyers and judges. Moreover, even when people might avoid participation, they often have a duty to participate. The police officer should not ignore criminal behavior, and the good citizen who witnesses a crime should cooperate with authorities.

I am aware that when I respond to the question posed to me in this way, I am not answering the question that those who invited me here intended to ask. The question I am here to address is why should citizens participate in the administration of justice as jurors or, along with professional judges, as members of mixed tribunals? But to begin by thinking about the many ways that citizens do participate in the administration of justice puts the latter question in perspective. One might ask, why should citizens participate in the administration of justice in every way except as lay jurors or assessors; that is, except as people sharing responsibility for the ultimate decision? In other words, in a democracy, shouldn't the burden of proof be on those who want to exclude citizens from judicial decision making? (I shall focus my response to this question on jurors rather than on lay assessors because the system I know best uses juries. I shall say a few words about lay participation as assessors at the end.)



Opponents of the jury system make several arguments. One is that ordinary people don't do a good job of judging; that is, deciding legal cases requires the kind of experts we call judges. The evidence from the United States, beginning with the classic study of the American jury by Harry Kalven and Hans Zeisel, offers only partial support to this argument. Kalven and Zeisel found that in both criminal and civil cases, judges' verdicts agreed with juror verdicts about three-quarters of the time. But even when the judge and jury disagreed, Kalven and Zeisel turned up little to suggest juror mistakes or confusion. Rather, cases of disagreement tended to be close on the facts to begin with, with no apparent effect of factual complexity; that is with no reason to believe that the differences were due to jury misunderstandings. Research since Kalven and Zeisel's work, including research that listens in on and evaluates the deliberations of mock jurors, consistently finds that jurors do a relatively good job in evaluating facts. Moreover, when jurors seem to make factual errors, as in some complex cases, there is often little reason to believe a judge would not have been equally confused, and some evidence, admittedly anecdotal, suggests that often juror confusion is due to the failure of the judges or attorneys to do their job well.

Jurors do not, however, do all their tasks equally well. Mock jury studies and interviews with actual jurors after trials indicate that jurors often misunderstand the law that the court has told them to apply. This does not appear to be because

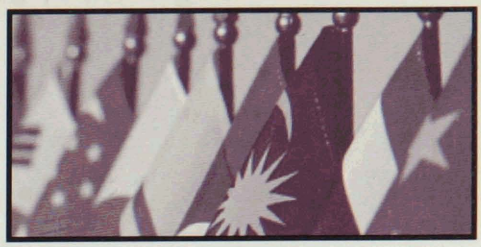


people without legal training cannot grasp the meaning of legal rules. Rather, jurors are often instructed on the law in language so complex that even a law student would have difficulty understanding it, and in many U.S. courts, jurors are further handicapped because they only hear the instructions on the law and do not receive written copies of them. Hardest to believe is that when jurors know they are confused about the law and ask for clarification, rather than attempt to clear up the jury's confusion, trial judges often just read the confusing instruction again. Indeed, some state supreme courts have said that this is what trial judges must do.

Yet research indicates that if instructions are rewritten with the goal of clarity, juror understanding greatly increases. One of the great puzzles of jury reform in America is why, with the various, sometimes questionable, innovations made in the name of jury reform, few jurisdictions have invested substantially in clarifying their jury instructions, which is the reform most likely to improve the system. In sum, the American experience with jury confusion about the law should not dissuade Japan from adopting a jury system. Rather, if Japan institutes a jury system, it should do it right, and one element of "doing it right" is to ensure through close attention to language and behavioral testing that instructions on the law are clear enough so that most jurors understand them.

A second argument against citizen participation in trial decision-making is

Closely related to the bias argument is the argument that juries are irrational in other ways. No one who has argued that juries are irrational has ever supported the argument with systematic evidence. Rather, support is sought in "crazy jury" stories, or anecdotal evidence of jury verdicts that seem so absurd as to condemn the jury system. Some of these juror "horror stories" have even reached Japan.



that ordinary people are biased. It is true that people have biases, but judges are people, too, and it is a mistake to think that judicial training tames their biases. In fact, there is good reason to believe that the biases of jurors pose less of a danger to justice than the biases of judges. This is because jurors decide cases in groups of from six to twelve people. Usually these groups include people with differing biases, meaning that in the group deliberation process, biases can cancel out. Judges, if they decide as individuals, may be influenced by their biases without realizing it, and even when judges deliberate in groups of three, as they may do in important cases in Japan, their similar training and status means that their biases are more likely to coincide than are the biases of randomly chosen lay people deciding in larger groups. Moreover, judges may be accountable for their decisions in ways jurors are not. In the United States, there is at least anecdotal evidence that concerns about reelection have affected judge's decisions in particular cases, including the decision to sentence to death. In Japan, Professor Mark Ramsayer has provided convincing quantitative evidence that judges whose decisions do not please the government are more likely than others to receive undesirable judicial assignments.

Moreover, juror biases are not necessarily bad, and they are often not what jury critics expect. Kalven and Zeisel, for example, found that in about 80 percent of the criminal cases in which juries and judges disagreed about verdicts, the jury acquitted a defendant when the judge would have convicted. The jurors, according to Kalven and Zeisel, seemed to be applying a more stringent test of what it means to prove someone guilty beyond a reasonable doubt. Such a leniency bias is not necessarily a bad thing. It may be truer to the law's standards than the standards of judges who are used to seeing mainly guilty defendants.

One can, of course, imagine juror biases that are more clearly undesirable in the sense that, unlike the leniency bias, they run counter to the norms of the law. Where people have been injured, for example, jurors are often accused of harboring a general pro-plaintiff bias and, more specifically, biases that favor poorer over wealthier parties in personal injury cases, individuals over corporations in products liability suits, and patients over doctors and hospitals in malpractice actions. But research lends little support to these stereotypes. Taking all civil litigation together, defendants win lawsuits about as often as plaintiffs do. Moreover, Kalven and Zeisel found that when judges and jurors disagreed in personal injury cases, there was no directionality to their disagreement. Judges found for plaintiffs when jurors found for defendants almost as often as jurors found for plaintiffs when judges found for defendants. Medical malpractice and products liability trials, in which pro-plaintiff biases might be thought to be especially likely, show greater defendant success rates than most other types of civil litigation. Indeed, the plaintiff win rate in medical malpractice cases brought against doctors is only about 20 percent, lower than plaintiff success rates in all other civil litigation categories with enough cases for separate evaluation.

Jury experiments by Valerie Hans and others are consistent with these results. Professor Hans finds that although there is some tendency in negligence cases for mock jurors to find against large corporations when on the same facts they would find for individual defendants, this does not result from prejudices favoring poorer litigants over wealthier ones or individuals over corporations. Rather, it is because jurors hold large corporations to higher standards of responsibility than they hold ordinary people. This is not unreasonable. A large corporation, which can collect accident data or do safety research, is better able to foresee possibilities of danger than individuals engaging in the same kinds of activities. Greater foreseeability should be associated with findings of negligence and awards of punitive damages, since tort law often makes these awards turn on foreseeability.

Closely related to the bias argument is the argument that juries are irrational in other ways. No one who has argued that juries are irrational has ever supported the argument with systematic evidence. Rather, support is sought in "crazy jury" stories, or anecdotal evidence of jury verdicts that seem so absurd as to condemn the jury system. Some of these juror "horror stories" have even reached Japan. But I doubt if the full stories are reported here, for seldom do they make the news, even in the United States. Often, when the full story is known, it turns out that the jury's decision was a rational verdict, given the case it heard.

For example, I know that many people in Japan heard news of the McDonald's coffee spill case. In that case, a Texas jury awarded about $200,000 in actual damages and $2.7 million dollars in punitive damages to a 79-year-old woman named Stella Liebeck, who burned herself when she spilled a cup of hot coffee that a local McDonald's franchise had sold her. The verdict sounds crazy, doesn't it? A company must pay almost $3 million for the carelessness of an elderly woman who spilled coffee on herself. On these facts, which is all most people know of the McDonald's case, it appears that the jury has either lost its sense or was playing "Robin Hood" with a large corporation's money. It may surprise you to know that several jurors in the McDonald's case began with the same thoughts about Mrs. Liebeck's claim that you probably had. When they heard the case briefly described during the jury selection stage, they too thought that her request for damages was outrageous, and several later said they wanted to be on the jury so that they could decide for McDonald's and make a statement condemning greedy, irresponsible plaintiffs. But once these ordinary people were on the jury, they learned facts that most people who have heard of the verdict do not know. They learned that McDonald's kept its coffee 20 degrees hotter than other fast food restaurants, at a temperature that could scald people. Not only did McDonald's know that its coffee was dangerously hot, but it had more than 700 coffee burn

complaints in the year before Mrs. Liebeck burned herself. Yet the company still required its franchisees to serve their coffee scalding hot. Nor was Mrs. Liebeck a greedy plaintiff. Instead, she was a woman who had been burned so severely she had been hospitalized, and her daughter, a nurse, had had to take a week off from work to care for her. Despite her pain and expenses, Mrs. Liebeck originally asked McDonald's for just $8,000 to cover her hospital and medical expenses. McDonald's, however, only offered her $800. Later, McDonald's turned down other offers to settle, and the company also rejected a substantial arbitrator's award for Mrs. Liebeck. So, far from being irrational, the McDonald's jury's verdict reflects a justified popular reaction to the callousness of a company that had tolerated hundreds of coffee burn victims (settling threatened suits in some cases) and apparently would have been willing to tolerate hundreds more had a jury not sent a message that its indifference to the injuries it caused was outrageous.

A fourth reason why we might want to deny ordinary citizens the right to participate as decision-makers in the justice process is that juries cost money. It is true that citizen participation is likely to be more expensive than a system that relies entirely on judges for legal decisions, particularly if the value of the time jurors spend hearing cases is factored into the cost. The question is what to make of this. Although jurors represent an added expense, if the Japanese system is like the American one, the cost of having a jury system is only a small fraction of the costs of administering justice, and will be trivial when compared to sums we are willing to invest for other purposes. It would not surprise me if a Japanese jury system could be maintained for a year for less than the amount the nation's Pachinko players put into their machines in a day.

More important, however, are less tangible possible costs. If Japan were to adopt a jury system, changes in the way trials and appeals are handled and, indeed, the way lawyers are trained, would probably have to follow. Trials to juries would, no doubt, be concentrated proceedings rather than proceedings that might extend over several years. Pretrial proceedings would become more important than they are today, and a need for extensive discovery might arise. Young lawyers would have to be trained not only in the art of creating a dossier to please a judge, but also in how to argue orally to convince ordinary people. The *koso* appeal, in which facts and law are both reviewed, would probably be replaced in jury cases by appeals where only questions of law were heard, as was the case when Japan last had a jury system.

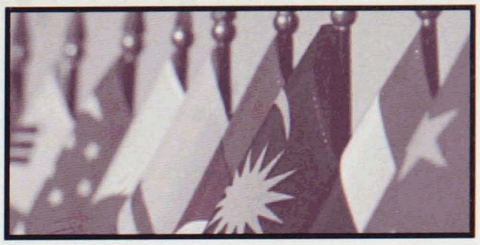
I have referred to these changes as possible costs. But they may also bring with them benefits. Pretrial discovery procedures might, for example, foster settlements, leading to the quicker resolution of many cases and lower costs. Concentrated trials, if they promoted speedier case resolution, might also lower financial costs and would surely lower the psychological costs that people pay when they must wait years for verdicts. I, as an outsider, cannot strike the balance between costs and benefits for you. I can only point to factors that Japanese policy makers might want to consider in deciding whether to adopt a jury system.

I am afraid my discussion of the issue of citizen participation in the administration of justice has to this point proceeded in a somewhat backwards fashion. I first pointed out that citizens in fact participate in the administration of justice in many different ways. I then asked why, with all this citizen participation in the justice drama, should ordinary citizens be excluded from the final act, the point at which litigation culminates in judgment. This question led me to present some of the arguments commonly given against citizen participation as jurors, and to share with you my belief that what some people see as telling arguments do not hold up well when confronted with empirical evidence.

Now I shall turn the question around again. This time I shall answer it the way it was asked: Why should citizens participate in the administration of justice? The first reason, as we have seen, is that, at least when they are asked to find facts, citizens serving as jurors do a pretty good job. Not only are they usually similar to professional judges in their decisions, but in some instances when jury verdicts disagree with judge verdicts, jury verdicts are superior. They may, for example, have a higher threshold for proving guilt than judges, and their threshold may be more consistent with the law's requirement that guilt be proved beyond a reasonable doubt. Moreover, when jurors do not conform strictly to the law, it may, from a social policy or moral standpoint, be a good thing to allow the law to be slightly leavened with popular values.

Perhaps the most important attribute that juries have is that they are the one non-bureaucratic element in our system of administering justice. The presence of decision-makers for whom cases are not routine means that each case is addressed individually with fresh eyes and is not decided on the basis of superficial resemblances to prior decided cases. Moreover, as an outsider the jury does not have ongoing experiences or relationships with other justice system "regulars", like the police or prosecutors. Jurors' decisions are not likely to reflect either blind faith in the ability of these other justice system actors or a need to get along with them.

It is important that people do not make a career of jury duty. This allows jurors to return unpopular verdicts without fear of government retribution, such as an assignment to an unimportant court in an obscure but cold community in northern Japan. Jurors also don't face personal consequences if their verdicts are misinterpreted. Thus, a jury could return a substantial verdict against McDonald's for the company's irresponsible insistence on selling scalding hot coffee when it had ample reason to know the coffee was dangerous. A judge, however, might be reluctant to return such a verdict, for the difficulty of communicating to the public the justification for a seemingly silly result might mean that a large verdict for the plaintiff would interfere with the judge's chances of reelection or promotion to a higher court. Also, in some states in the



United States, a judge's decisions might lead wealthy individuals, corporations, or unions to spend large sums of money to defeat the judge when he ran for reelection. It is hard for a person to ignore threats like these. But a jury does not have to fear unwelcome consequences if it offends powerful parties.

More controversially, juries can nullify the law. Nullification is controversial not only because it appears to offend the rule of law and to interfere with the law's predictability, but also because nullification does not always serve good causes. During the civil rights era, for example, a jury in Mississippi nullified the law by acquitting a white defendant who had killed a black youth, allegedly because the youth had whistled at a white woman. (But the white trial judge who presided over the trial most likely would have done the same thing.) Juries have also nullified more normal but unpopular crimes, like hunting out of season and, at one time, drunk driving.

But there are also celebrated as well as less publicized cases in which jury nullification protected people from oppressive legislation, or stood between them and the state in situations where ordinary laws were violated but charges were brought not to vindicate these laws but to punish people for asserting freedom and challenging authority. Jury nullification in these circumstances not only thwarts oppressive legal actions, but it also sends a powerful message to authorities about official overreaching and uses of state power that the people will not tolerate. More commonly and less symbolically, nullification writ small can soften the harshness of the formal law in particular circumstances. Thus, from medieval times juries have returned verdicts that freed people who had killed in self defense but could not meet the law's formal requisites for acquittal, and today mercy killers are seldom convicted of first degree murder, although their crime fits the letter of the law.

I do not mean by this discussion of nullification to claim that a jury system is required for a free society. If I were so foolish, examples like those of Japan or the Netherlands would immediately contradict me. But I do suggest that when citizens participate in the administration of justice in the powerful role of jurors, it is difficult for an oppressive government to maintain itself. Hence, I think it no coincidence that jury systems, which spread throughout continental Europe after the French revolution, disappeared in countries like Spain, Germany, and Russia when these countries came under authoritarian control. Japan itself may be an example. Its jury system originated in 1923 and was most extensively used in the 1920s, the pre-war period when democratic freedom was probably at its peak in Japan. As more militaristic elements came to dominate the Japanese government, the use of juries in Japan diminished substantially, so that by the time they were suspended, in the midst of the Second World War, they were hardly being used at all.

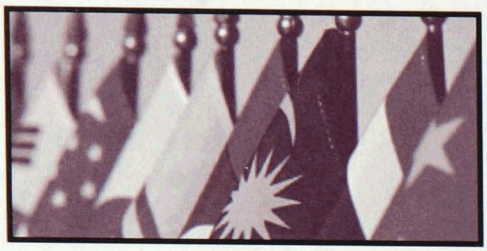
Thus, I suggest that to invest in a jury system is to invest in democracy, for juries are incompatible with unpopular, authoritarian rule. As long as jury service is open to most adults, the jury is a fundamentally democratic institution. Juries are people governing themselves. Indeed, citizens serving on juries take responsibility for government action in a more involving, immediate, and consequential way than they do as voters in free elections, that other quintessentially democratic institution. A belief in democratic self-government is another reason to involve ordinary citizens in the administration of justice.

A final reason why citizens should be involved in the administration of justice is that people like jury duty. Not every juror is happy with the experience, and some people, primarily for financial reasons or reasons of convenience, try to avoid jury duty, but most jurors when questioned after their service report that it was a largely positive experience, and many say that they came away from their service thinking better of the legal system than they did before they started. Members of juries that have reached unanimous verdicts are particularly likely to be satisfied and to feel that their jury reached the correct decision.

I have to this point equated citizen participation in the administration of justice with juror participation. But as I recognized at the outset of this paper, in many countries citizen participation in the justice system takes a different form; citizens participate alongside professional judges as lay assessors in mixed tribunals. Citizen participation of this sort can have some of the virtues of juror participation and avoid some of the drawbacks. Lay assessors, like jurors, don't have the careerist interest in verdicts that judges sometimes have, and citizen judges in mixed tribunals, like citizens on juries, are actively engaged in their own government. Moreover, lay assessors are unlikely to have the problems understanding the law that jurors have, for they deliberate with judges who can explain what laws mean. Mixed tribunals also allow more flexibility in how cases are presented. Juries seem to demand concentrated trials, but mixed tribunals might be adapted to a trial at intervals system like that in Japan, though the time these trials stretch out would probably have to be a lot shorter than it now often is.

Mixed tribunals come in many forms. They differ in the number of judges and in the ratio of lay to professional judges, in how lay judges are chosen, in the length of the terms that lay judges serve, and in the degree of agreement that is needed to return a verdict. Assessments of mixed tribunals and of the value of the citizen input they allow depend on how the tribunals are organized in these and other respects.

Nevertheless, from my perspective as a person who has done jury research in the United States, citizen participation in mixed tribunals lacks some of the advantages that come with citizen participation through jury systems. This is because the evidence suggests that mixed tribunals are dominated by their professional judges, even when lay assessors outnumber the professional judges on panels. Judicial dominance is not surprising. Most jurors want guidance from the judge presiding over the case. They complain about too little judicial help, rather than too much. If the trial judge actually deliberated with the jury, jurors



would feel a strong, if not overwhelming temptation to defer to his knowledge and experience. But in jury deliberations the judge is not present to defer to. Since judges are necessarily present in mixed tribunals, deference by the lay assessors is natural, and it seems regularly to occur. In Japan, where deference to age and status is built into the culture more than in Western societies, lay assessors would likely be even more influenced by professional judges' opinions than the lay participants in European mixed tribunals. Also, although lay assessors could, in theory, be chosen to serve for any length of time, even for single cases, in practice lay assessors in mixed tribunal systems serve for extended periods of time, sometimes several years, and for some people lay judging becomes a primary job or a vocation. Thus, many of the advantages that accrue from the non-bureaucratic aspects of citizen involvement diminish over time. After six months or a year of lay assessing, a citizen may no longer have a fresh eye and may enjoy much the same relationship with courtroom regulars that professional judges do.

Lay assessor systems also compare poorly to juries as institutions that democratize participation in the administration of justice. Rather than being chosen at random, lay assessors are often people who seem specially qualified to take on the role of judge. In addition, far fewer lay assessors than jurors are needed to hear cases in a given period, so citizen participation in the justice system is not nearly so widespread.

If Japan chooses to involve ordinary citizens as decision makers in the administration of justice, the temptation will be to move to a system of mixed tribunals, since that is a far smaller step and one less disruptive to current procedures than a move to a jury system. But if Japan chooses the timid option, it will be out of step with developments around the world, where countries like Spain and Russia, which once had and then abolished jury systems, are reinstating them, sometimes replacing the jurisdiction of mixed tribunals. Yet more importantly, if Japan moves to a system of mixed tribunals, it will not secure most of the gains that a move to a jury system will bring.

I am an outsider and hesitate to judge a country I don't know well, but it appears from where I stand in the United States that Japanese democracy is robust enough and its citizens civic minded enough to make a success of the jury system. The mixed tribunal system is a compromise. If Japan wants the reality of meaningful citizen participation rather than just the appearance of citizen involvement, it should opt for a jury system.

Finally, let me caution you that there are some things you should not expect from a move to a jury system or a system of mixed tribunals. The current movement in Japan to involve ordinary citizens in deciding legal cases received, I have been told, great momentum from several cases in which judges deciding alone sentenced men to death for murders the men did not commit. Ironically, avoiding mistaken verdicts like these is not a good reason for greater citizen participation in the administration of justice. All humans and human institutions make mistakes. There is no guarantee that a jury would have decided these death penalty cases differently than the judges who heard them, and there is every reason to believe that on a mixed tribunal, the citizen judges would have endorsed the professional judges' judgement. But even if a jury would have decided these death penalty cases correctly, there would be other cases where a jury would be mistaken when a judge or a mixed tribunal would have decided correctly. The case for greater citizen involvement in the administration of justice in general and for involvement through a jury system in particular does not lie in the avoidance of mistakes a judge would make. Rather, it turns on the other virtues of citizen participation, particularly the virtues associated with the link between citizen participation and democracy, and with the value of having as decision-makers a group of people who are not part of the ordinary justice bureaucracy.

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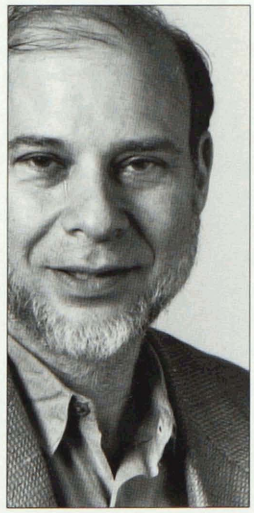

CREDIT CARDS IN THE UNITED STATES AND JAPAN

— By Ronald J. Mann

The following essay is excerpted from a paper prepared during fall 2000 during the author's stay in Tokyo as a visiting scholar at the Institute for Monetary and Economic Studies at the Bank of Japan. More details and the longer version of the paper are available via two Web sites:

http://www-personal.umich.edu/~rmann/credit%20 cards.htm
and http://www-personal.umich.edu/~rmann/japan.htm

One of the most important aspects of consumer payment systems in the United States is the widespread use of credit cards. American consumers use credit cards to pay for about one-fifth of their purchases each year. That pattern of use is not universal.

Consumers in other countries use cards to pay for purchases much less frequently — statistics from the Bank of International Settlements suggest about 62 card-based payment transactions per person per year in the United States, but many fewer such transactions in other countries. For example, Japan's economy has only four such transactions per person per year. The question has important policy ramifications both because of the benefits of card-based payment systems (low-cost payments that enhance the efficiency of the retail sector of

the economy), and also because of the problems that come with them — including the likelihood that the high rate of credit-card use in this country is related to this country's high rate of consumer bankruptcy — the highest of any industrialized country.

The question naturally arises whether there is something about the card that is uniquely attractive to certain types of consumer personalities — perhaps the relatively profligate and confident consumers of the United States — so that credit cards are more attractive in some countries and less attractive in those populated by consumers of a more cautious and prudent inclination. Or, alternatively, is the relative use of credit cards driven by aspects of the institutional backgrounds of particular countries that make cards more useful and effective in some countries than others.

This paper attempts to explore the latter alternative. I argue that the success of credit cards in different countries generally can be explained for the most part by the institutional background of the countries in question. Specifically, I identify three institutional factors associated with the growth of credit cards:

- A regulatory environment that permits free participation by banks in the credit-card market (because depositary institutions are best-placed to develop card-based payment products)
- Low telecommunication costs (because low telecommunication costs foster an effective anti-fraud system)
- The size of the national retail economy (because of economies of scale in implementing technological improvements to the system).

PATTERNS OF USAGE

In the market for retail purchases in the United States, the credit card is a massive success: it was used in 1998 for 14 billion transactions worth almost $1.1 trillion dollars, about $76 per transaction. Department of Commerce statistics indicate that in 1998 credit cards were used in about 17 percent of all transactions, for about 21 percent of the value paid in all American payment transactions. For the most part, those transactions were conducted as revolving-credit transactions. Under American practices, that means that the cardholder decides each month what share of the total account balance it will pay back; the cardholder is required to make only a tiny minimal payment, in an amount that often would not amortize the entire balance for several years. In practice, somewhat more than half of American cardholders take advantage of that option to defer payment of some or all of their credit-card account balance each month. The payments that they do make are made for the most part by writing a check and mailing it to the issuer.

The contrast with Japan is considerable. First, Japanese consumers plainly do not use cards as frequently as American consumers: One recent study, for example, indicated that even excluding cash transactions (by all accounts the dominant method of point-of-sale payment in Japan), credit cards accounted for only 10 percent of the value of payment transactions. Industry statistics indicate only ¥20.76 trillion of credit-card transactions in 1999, about 5 percent of the ¥400 trillion of Japanese consumer spending last year. That reflects purchases of about $1500 *per capita*, compared to about $3500 *per capita* in the United States. As you would expect given the larger role of cash payments in Japan, the average credit-card transaction is much larger in Japan than it is in the United States, in the range of ¥25,000 (about $225).

Perhaps the most important feature of the Japanese transactions is the limited extent to which they involve credit. The overwhelming majority — 80 percent or more — of Japanese credit-card transactions are settled by *ikkai barai* (which means something like "payment in one cycle"). Under *ikkai barai*, the consumer agrees (at the point of purchase) that the transaction will be paid to the issuer in full on the next monthly payment date.

The full implications of *ikkai barai* for the credit-card system come from its interaction with the general absence of the check from the Japanese consumer payment system. The ordinary Japanese consumer pays bills by a credit transfer or a prearranged debit transfer (similar to the automated clearinghouse transactions American consumers often use to pay mortgages or other regularly recurring bills). Thus, in the credit-card transaction, the customer's consent to *ikkai barai* amounts not only to a general commitment to pay in one month — analogous to the American cardholder's general commitment when it signs a credit-card slip that it will repay "in accordance with the agreement with the card issuer." The consent to *ikkai barai* also includes an authorization for a transfer out of the customer's account to pay the transaction shortly after the last day of the payment cycle. Because the cardholder at the point of purchase already has given the issuer access to a specified amount of funds in a specified account, the transaction resembles much more closely an American debit-card transaction than an American credit-card transaction.

After the end of each payment cycle, the issuer sends the cardholder a statement summarizing the charges. Absent an affirmative and timely objection by the cardholder, the issuer causes the funds to be transferred from the cardholder's bank account to the issuer's account on the

designated date. When the cardholder uses *ikkai barai*, there typically is no interest or other charge for the deferral of payment from the date of the transaction to the monthly payment date. Thus, the 80 percent (or greater) share of transactions processed by *ikkai barai* involves no significant extension of credit by the issuer.

EXPLAINING THE DIFFERENCES

It is not difficult to accept the limited extent to which credit cards have caught on as a consumer payment system in Japan. Among other things, there is the strong reliance on cash by Japanese consumers, which leaves a relatively small noncash payment-systems market for credit cards. Also, although Japan's economy is one of the largest in the world, it is somewhat smaller than the United States', which gives Japan marginally less access to the economies of scale in deployment of technology to facilitate effective card systems.

It is much more difficult, however, to understand why Japanese cardholders borrow so rarely even when they do use the cards. The most obvious explanation is the simplest, but also the least satisfying: Japanese cardholders by nature are more cautious, and averse to borrowing, than American consumers. Thus, you might think that it is natural that they should use credit less. That habit could be connected to the substantial literature attempting to explain what seems to be the higher predilection to save of the individual Japanese consumer. From that perspective, the other side of a higher predilection for savings would be a lower tendency to use consumer credit. If the analysis starts from that point, it should be no surprise that the Japanese consumer credit market as a whole is much smaller *per capita* than the American consumer credit market. The American consumer credit market is now in the range of $1.2 trillion (about $4,400 *per capita*). The Japanese market is much smaller, about ¥30 trillion (about $2,200 per person).

It probably would be an exaggeration to deny that explanation entirely. It does, however, have a number of obvious problems. The first is that much of the academic literature explains the higher savings rate not as a special aspect of the Japanese personality, but instead as a result of other institutional features of the Japanese economy. For example, some scholars think the higher rate of savings is caused by the Japanese system for intergenerational transfers of wealth, while others view it (even now) as an artifact of Japan's stage of industrial development. Although those explanations would explain a lower rate of consumer spending, they provide much less direct support for the lower rate of consumer borrowing that appears in the credit-card market. Specifically, they provide little support for the specific observation in question: a lower rate of borrowing in those transactions in which consumers choose to purchase by credit card.

To explain that pattern, it seems more useful to look to the specific history and structure of the Japanese credit-card market. Perhaps the most obvious thing about the structure of the market is the strong role that nonbank issuers play in that market. In the United States, cards issued by banks account for almost two-thirds of the market: Visa has about 38 percent of the market and MasterCard about 21 percent of the market. In Japan, by contrast, the role of the banks is quite a bit more limited. As of 1998, cards issued by companies affiliated with banks were responsible for only about 49 percent of Japanese credit-card shopping. Cards issued by retailers accounted for another 29 percent; cards issued by *shinpan kaisha* (a non-bank type of credit-sales company) for another 17 percent. Those numbers might not seem so different from the American numbers, but they obscure a more fundamental point: the limited role

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bank-affiliated issuers play with respect to credit; bank-affiliated issuers had only 13 percent of the extended borrowing (*kappu*) done by credit cards.

The limited role of banks in the credit-card system surely is related in a general way to the limited attention that banks in Japan have devoted to consumer finance. Even now, notwithstanding the financial pressures that have confronted the Japanese banking industry in the late 1990s, it is not clear that Japanese banks have turned wholeheartedly to consumer finance.

But the relatively limited bank role in the credit-card market in particular has a more specific explanation: a long (and not-yet-ended) history of regulatory exclusion from the market. Given the success that American banks have had in the credit-card market, it is surprising to learn of the tradition limiting the participation of Japanese banks and their affiliates in that market. The precise reason for the exclusion is not entirely clear. Mark Ramseyer and Frances Rosenbluth argue that the exclusion generally was designed to protect smaller credit companies that would have suffered from competition with the banks. At least in part, at some times, however, it also seems to have been designed to protect retailers as well.

In any event, for whatever reason, banks (but not their affiliates) were entirely barred from issuing credit cards until 1982. Not until 1992 were banks or their affiliates permitted to issue cards that allowed revolving credit. And not until this year have Japanese banks and their affiliates been permitted to issue cards that include a variety of other borrowing options typical of the industry.

To be sure, the exclusion of banks from the credit-card market does not necessarily preclude the development of a market for credit-card lending. Nevertheless, as explained above, the development of the industry in the United States does suggest that Japan's long exclusion of banks from the market can explain much of the limited use of credit in the credit-card market. One way to look at the Japanese card market — with its *ikkai barai*-dominated payment structure — is to view it as just starting to move beyond the payment cards that populated the American market in the 1950s and 1960s. It is not a coincidence that the credit card first introduced in Japan (in 1960) was modeled directly on the American Express and Diner's Club payment cards. Without banks in the marketplace, the industry has for the most part been static since that time: the products available to consumers have not been sufficiently attractive to produce the consumer reaction visible in the United States.

This is seen most clearly in the institution of revolving credit, which is so strangely missing from the Japanese credit-card market. At least part of the answer must be the relatively unattractive features of that product as it exists in Japan. Specifically, "revolving" credit in Japan does not permit the freely chosen, month-to-month varying payments typical of the American cardholder. Rather, the cardholder agrees, at the time that the card is issued, that any transactions designated as "revolving" will be paid back over a prearranged schedule (perhaps 10 percent per month, perhaps ¥10,000 per month). The product is designed in that cumbersome way for a reason: in the absence of checks, it is much less practical for the Japanese cardholder to make the odd-amount monthly payments than it is for the American cardholder who normally pays by check. But despite that practical cause for the payment method, the fact remains that the so-called revolving credit traditionally offered to Japanese consumers is not nearly as convenient as the product available in the United States.

Still, it is difficult to understand why the non-bank players in the credit-card industry have not stepped into the void to provide the seductive products that American banks have designed to facilitate the profitable extension of so much consumer credit in the United States. It is clear that the major players are aware of the profitability of revolving credit; most of them have simply failed in their efforts to persuade their customers to use it. My answer is the one suggested above, that banks are best-placed to develop credit-card products that facilitate large amounts of borrowing. The exclusion of banks from the Japanese market during the period that those products were developed in the United States — when depositary relations seemed to be crucial to successful credit-card issuance — stifled development of those products until the last few years.

The plausibility of that analysis is bolstered by a significant recent innovation in the Japanese credit-card market: the 1999 introduction by at least one consumer-finance company of a credit card that offers the type of revolving credit that has been so successful in the United States. The identity of the issuer — a consumer finance company not affiliated with any depositary institution — suggests that the same developments in information technology that foster successful credit-card lending by American monoline banks — with no depositary relations with their customers — have shown the way to similar products in Japan.

As you would expect, based on the American market experience, the product seems to be successful, at least initially, in attracting customers; the company has issued more than 500,000 cards in the first 18 months of the program (more than a third of them to customers with no previous relationship with the lender). For present purposes, the most important thing about the program is that those customers are selecting revolving credit for a staggering (for Japan) 91 percent of their purchases. The company's underwriting relies heavily on a credit-scoring model, an approach that seems to resemble closely the models used by American issuers. The use of this technology is particularly surprising given the relatively limited availability in the Japanese consumer-finance industry of consumer financial information.

Perhaps the most persuasive point supporting the importance of the exclusion of banks is the recent history of the credit card in Japan, which in the last few years (since bank-affiliated issuers were permitted to issue cards with revolving credit) has displayed a marked convergence with the American pattern of usage. First, Japanese use of credit cards almost doubled between 1994 and 1998

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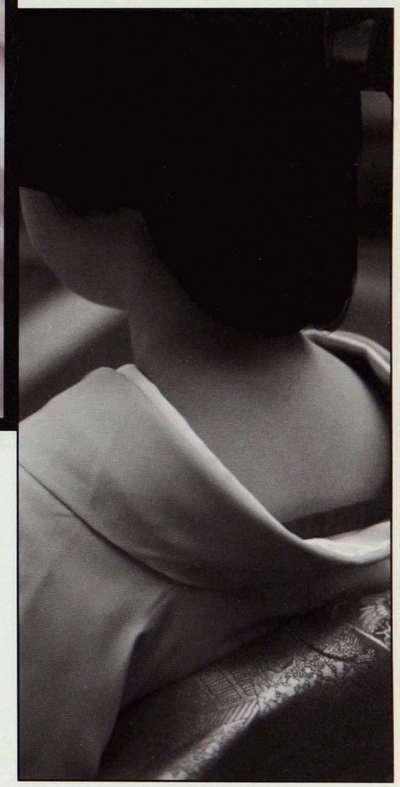

(from 362.8 million transactions to 720.7 million transactions). Interestingly, the amount of the transactions rose by only about 40 percent (from ¥12.5 trillion to ¥17.8 trillion), which resulted in a decrease of the average transaction by about 28 percent (from almost ¥34,500 to just under ¥25,000) — still much larger than American transactions, but apparently dropping, as the credit card seems to displace a larger and larger share of cash transactions.

Second, on the specific point of relevance — the use of borrowing with credit cards — it is clear that the gross amount of borrowing is increasing (by 19 percent in the last three years), and that the share of borrowing among bank-affiliated credit-card transactions is growing particularly rapidly (by 74 percent in the last three years). It would be imprudent to give much weight to evidence of a macroeconomic trend appearing over such a short period of time — less than an entire economic cycle — but if the trend continues, it would move Japanese usage patterns closer to those in the United States: with more transactions, of a significantly smaller amount, and with more frequent borrowing.

To summarize, it may be that part of the difference in the use of credit in credit-card transactions arises from something different about the "taste" of the Japanese cardholder for borrowing, but a substantial part of the difference also must be attributable to differences in the institutional framework within which the card has developed, and in which it is used.

THE EFFECTIVENESS OF THE SYSTEM

It is fair to wonder whether the same circumstances that have limited the use of credit in the Japanese credit-card industry have undermined the effectiveness of the system. The question is particularly important, because a first glance at the Japanese system suggests that it does quite a poor job. At least compared to the American system, the Japanese system is relatively expensive to the merchant who takes the card and also endures relatively high losses from fraud. In both cases, however, a closer look at the systems suggests that the raw differences in the statistics overstate the severity of these problems. Both problems are related to the limited use of credit and thus, like that phenomenon, do not seem to be long-term aspects of the system.

In assessing the cost of a payment system, the most relevant cost is the cost to the end-users, the parties to the payment transaction. For a credit card, the simplest indicator of that cost is the discount fee that a merchant pays when obtaining funds for the transaction from the card system. For the Visa and MasterCard credit-card systems that dominate the United States market, the discount fee varies widely depending on the type of merchant, but normally ranges between 1.5 to 5 percent, with most merchants seeming to pay something less than two percent. The discount fee for American Express (the largest competitor) is about 2.75 percent. Although it is difficult to get specific information, the discount rates in Japan seem to be somewhat higher. Published sources suggest that rates often are above 5 percent, but in fact rates seem to be quite a bit lower. Based on my interviews, my impression is that a typical rate is more commonly in the vicinity of 3 - 3.5 percent.

The most persuasive explanation for the higher discount fees is the paucity of credit transactions. In the United States, credit-card issuers rely heavily on revenue from interest that their cardholders pay on borrowed funds. Thus, they can operate profitably with a relatively smaller reliance on revenue from the merchant. For example, credit-card issuers in the United States derive 88 percent of their revenues from finance charges (including late fees), and only 10 percent from interchange fees. In Japan, revenues from interest are a relatively small portion of the revenues of the card issuer, about 23 percent over the industry as a whole, but only 14 percent of the revenues of bank-affiliated card issuers. Thus, the issuer's operations can be profitable only if it obtains a relatively higher share of revenue from the merchant and the cardholder. In Japan those fees amount to 77 percent of all industry revenues, but 86 percent of the revenues of bank-affiliated issuers. And in fact, the apparent discount rates of 3 - 4 percent are not out of line if they are compared to the rates that American Express charges for its payment card rather than the rates Visa and MasterCard charge for their credit cards. Because American Express faces the same lack of interest income that Japanese issuers do, its discount rates provide a more appropriate benchmark for comparison.

To be sure, the discount rates do appear to be cognizably higher than those that American Express charges in the United States. But several structural explanations make that slight difference readily understandable. Most obviously, a merchant's selection of an acquirer in the United States occurs in a relatively competitive market characterized by a small number of clearing networks with a large number of potential acquirers in each network. Thus, in the United States, a typical merchant can gain access to the Visa and MasterCard systems from any of literally dozens of banks, as well as a large number of sophisticated third-party acquirers. First Data surely has a dominating share of the market (more than 40 percent), but there are such a large number of competitors of significant size that the market is relatively competitive, in the sense that there is extensive *intra-brand* competition notwithstanding the limited *inter-brand* competition. And even if American Express is the sole way for a merchant to get access to its cardholders, history shows that the rates that American Express can charge are affected by the rates that the larger Visa and MasterCard systems charge.

In Japan, by contrast, a merchant wishing to accept credit cards is confronted with a market featuring a large number of clearance networks with a relatively small number of potential acquirers in each market. Most merchants who accept credit cards find it necessary to make arrangements with several of the large Japanese systems, because most of those systems clear and process their own transactions:

a typical merchant might accept a dozen or more different cards and some accept as many as 25. Thus, for each of those systems, the merchant faces a single system operator with whom it must reach an agreement. It should be no surprise if the charges in that market were higher than they are in the United States.

On the other hand, that problem should be mitigated in the next few years, with the increasing tendency of all of the Japanese systems to issue cards with the Visa and MasterCard brand; cards with those brands can be cleared through any entity that is a member of those networks. If competition among members of those networks lowers the rates for acquisition of transactions of those brands, the large market presence of those brands should put pressure on the discount rates for other brands in Japan just as it has in the United States.

One last explanation for the higher discount rates is the relatively small size of the Japanese system. If discount rates are affected by economies of scale in the development and use of information technology, as I believe, then it would be natural for the Japanese system — in which fewer consumers use their cards less frequently — to be somewhat more expensive per transaction than the American system. That explanation does not necessarily suggest a long-term difference, but it does support a pattern in which Japanese rates tended to lag above slowly decreasing American rates. Although the information that I have is sketchy, this seems to be the case: Industry observers and executives believe that the rates have been dropping already during the last few years. Thus, higher discount rates seem unlikely to be a long-term problem for the system.

Another feature important to the effectiveness of a payment system is reliability: how well does it prevent unauthorized transactions? On that point, again, the raw data suggests that Japan has a problem. Specifically, the fraud rate in the

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United States is about 0.06 percent (six cents per $100). In Japan, by contrast, the fraud rate was much higher, about ¥0.13 per ¥100 — ¥27 billion last year in losses from fraud, of which ¥9 billion was from forged credit cards. The much larger United States system had only $155 million in losses from forged cards. Looking specifically to losses from forged cards, the Japanese rate of about 4.3 basis points is about three times the American rate of 1.3 basis points.

One possibility I initially considered was that the high fraud is associated with the diminished statutory incentive for Japanese card issuers to prevent unauthorized transactions. Under the Truth-in-Lending Act, American issuers are barred by law from shifting the risk of unauthorized transactions to their cardholders; Japanese issuers face no such constraint. It is possible, then, that the difference in legal treatment could lead to a lower level of care by the card issuer. On reflection, however, that explanation does not seem plausible. For one thing, Japanese issuers in practice retain the risk of unauthorized transactions, because they purchase insurance for much of that risk and voluntarily cover most of the losses that the insurance does not cover. Because they purchase that insurance from third-party insurers, it is fair to expect that the rates that they pay in the long run are affected substantially by their performance.

Moreover, it is clear that the fraud rates in both countries are not stable, as you would expect if the rates were associated with differences in the legal framework. In the United States, for example, the fraud rate has fallen by more than half in the last decade. Similarly, the fraud problem in Japan is relatively recent; fraud losses in 1999 were 45 percent higher than they were just two years earlier in 1997, with 94 percent of the increase attributable to losses from forged cards.

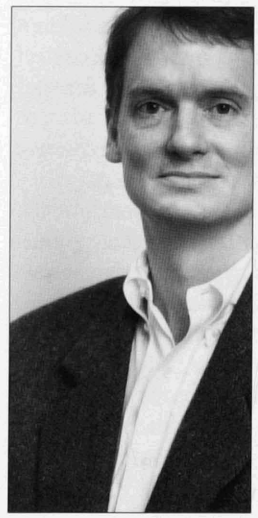
It is more plausible to attribute the losses to exploitation of short-term vulnerabilities in the Japanese system. Most obviously, the Japanese system uses contemporaneous telephone authorizations much less frequently than the American system, apparently because of the relatively high cost of Japanese telecommunications. Without those authorizations, the potential for fraud is much higher, because the system has no practical way to identify a card that bears a valid number, even if the magnetic stripe fails to include the information that would appear on a legitimate card.

But it is most implausible to regard that difficulty as a permanent feature of the system. It is unlikely that Japanese issuers and merchants will tolerate for long substantial losses from fraud that easily could be eradicated by simple authorization procedures that are standard operating practice in the United States. Thus, it is not surprising that the industry already is implementing responses that target that problem: industry sources explain that as of late 2000 or 2001 most department stores and hotels in Japan will process transactions without any floor at all — seeking online authorizations for all transactions regardless of size. Another response that seems to be appearing in the market already is an increasing tendency for large store-related issuers to adopt the Visa and MasterCard brands. Use of those brands gives the issuers access to all of the anti-fraud technology that has been effective in the United States.

But no technological advance can solve the problem entirely. Even contemporaneous authorizations are to some degree vulnerable to sophisticated cards created by skimmers (who obtain not only the card-account number, but also the other information on the magnetic stripe of the legitimate card). The only existing defense against those cards is the relatively vulnerable capacity of issuer-based expert computer systems to detect questionable patterns in the usage of cards. And to some degree, Japan's high fraud rate is caused by two unfortunate features that make it a likely target for such attacks: the high telecommunication costs that continue to deter merchants from consistent authorization of transactions and its proximity to the Asian locations where the most sophisticated card forgers seem to reside. To the extent those features are ineradicable, the Japanese credit-card industry will continue to endure fraud losses somewhat higher than those in the United States.

In the end, the two systems operate quite differently, in markets of different sizes with different constraints on the players, facing a customer base that arguably has a significantly different taste for the credit card. Thus, I finish my analysis not the least bit surprised by the many differences in the way the cards function in the two countries. If anything, it is surprising that the results are converging as rapidly as they are.

Ronald J. Mann, *the Roy F. and Jean Humprey Proffitt Research Professor of Law, joined the University of Michigan Law School faculty in 1997 after teaching at Washington University School of Law. He received his J.D. from the University of Texas at Austin, where he graduated first in his class and was managing editor of the* Texas Law Review. *After law school he clerked for Justice Lewis F. Powell of the U.S. Supreme Court and was an assistant to the solicitor general of the United States. Mann also practiced as a commercial real estate lawyer in Houston, where he represented both developers and lenders. His current research focuses on software development, letters of credit, and on policies for payment systems used in electronic commerce. He also recently published a textbook,* Cases, Materials, and Problems on Payment Systems and Other Financial Transactions. *He teaches various courses related to real estate transactions, commercial transactions, and intellectual property.*



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Reunion Participation 35%
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HONOR ROLL

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Webster Cook
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Keiichiro Imai
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Nathan S. Peterman
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James V. Rutledge
Everett J. Schroeder
D. Carlton Shull
William W. Slocum Jr.
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Asher N. Tilchin
Edgar A. Turpin Jr.
Robert E. Waldron*
Richard V. Wellman
Robert B. Wilcox
David Young

1951

Donors 74
Dollars $24,205
Participation 36%

CLASS AGENT
Horace J. Rodgers

$2,500 - $4,999
Kenneth C. Hamister
Gordon W. Hueschen*

$1,000 - $2,499
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Larry H. Snyder

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Harry T. Watts*
Albert V. Witham
Herbert M. Wolfson
David P. Wood Jr.
Harold T. Yamada

1952

Donors 82
Dollars $80,983
Participation 37%

CLASS AGENT
Kiehner Johnson

$10,000 - $24,999
Dudley J. Godfrey Jr.
W. Bruce Thomas

$5,000 - $9,999
Donald A. Odell
Norman M. Spindelman
Laurence L. Spitters

$1,000 - $2,499
Thomas D. Allen
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Lucille L. Huston
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Lawrence H. Johnson
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James L. Weirbach
Hardin A. Whitney Jr.
F. Stuart Wilkins
James B. Wilson
Louis E. Wirbel

1953

Donors 83
Dollars $43,571
Participation 39%

$5,000 - $9,999
William K. Davenport
Richard D. Rohr
Walter H. Weiner

$2,500 - $4,999
E. James Gamble

$1,000 - $2,499
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Garth E. Griffith
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Edgar A. Strause
Rudolph Tanasijevich
James S. Taylor
John Campbell Thomas
James O'Malley Tingle
Richard M. Treckelo
Franklin S. Wallace
Charles W. Wexler Jr.
William L. Wise
John L. Wolfe
Frank L. Zagelmeyer III

1954

Donors 79
Dollars $112,650
Participation 41%

CLASS AGENT
Lawrence L. Bullen

$25,000 - $49,999
Robert B. Aikens

$10,000 - $24,999
Evelyn J. Lehman*
Myron M. Sheinfeld

$5,000 - $9,999
David P. Wood

$2,500 - $4,999
Paul B. Campbell
William G. Hyland
George M. Mack
Ray B. Marglous
Joseph Van Buskirk

$1,000 - $2,499
Karl E. Braunschneider
Lawrence L. Bullen

*Deceased

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Hugh G. Harness
Carl A. Hasselwander
Robert J. Kilgore
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Norman N. Gottlieb
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William G. Hyland
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Frank M. Wheeler
John M. Wilson
David P. Wood
Richard W. Young
Allen Zemmol

1956

Donors 66
Dollars $181,596
Participation 37%

CLASS AGENTS
Jack G. Armstrong
Raymond H. Dresser Jr.

$100,000 +
William R. Jentes

$5,000 - $9,999
William C. Cassebaum

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Edwin S. Taylor
Robert S. Thompson
Edward C. Tietig
James A. Timmer
Dale VanWinkle
Thomas F. Wilson
Frederic L. Wyckoff
Norman A. Zilber

1957

Donors 77
Dollars $472,815
Participation 32%

$100,000 +
Jack D. Sweet

$1,000 - $2,499
Herbert A. Bernhard
George J. Caspar III
Ralph H. Dwan Jr.
Sidney C. Kleinman
James A. Leavengood
Cyril Moscow
Howard N. Nemerovski
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Leonard Toboroff
William C. Todia
John C. Tower
Gerald Tuchow
A. Duncan Whitaker
Walter F. Wolf Jr.
L. Bennett Young

1958

Donors 83
Dollars $285,291
Participation 35%

CLASS AGENT
F. Loyal Bemiller

$100,000 +
Terrence A. Elkes

$2,500 - $4,999
John C. Baity
Robert H. Kapp
Nick E. Yocca

$1,000 - $2,499
Ronald J. Cayo
James E. Crowther
John Charles Dowd
Jack N. Fingersh
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Thomas R. Winquist
William J. Wise
William P. Wooden
Wilbert L. Ziegler

1959

Donors 108
Dollars $364,682
Participation 43%

CLASS AGENT
Gerald L. Bader Jr.

$100,000 +
Melvyn I. Mark

$10,000 - $24,999
Louis Perlmutter
John E. Schippel
John P. Williams

$5,000 - $9,999
Gerald L. Bader Jr.
John W. Gelder
Jerome B. Libin

$2,500 - $4,999
Peter J. Armstrong
Edward Bransilver
Leroy Michael Jr.
J. Lee Murphy

This Honor Roll reflects gifts received July 1, 1999 to June 30, 2000.

HONOR ROLL

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James Tamio Funaki
Paul K. Gaston
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Barry Hirsch
Stanley Hirt
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George C. Stewart
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Robert P. Volpe
W. Stanley Walch
Marilyn M. Wanger
A. Roger Witke
Jerry G. Wright

1961

Donors 88
Dollars $118,372
Participation 37%

CLASS AGENT
William S. Farr Jr.

$50,000 - $99,999
Stanley R. Zax

$10,000 - $24,999
Gregor N. Neff
Henry B. Pearsall

$5,000 - $9,999
Irvine O. Hockaday Jr.

$2,500 - $4,999
Harold S. Barron

$1,000 - $2,499
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Louis Frey Jr.
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Paul S. Teranes
W. Gerald Thursby
David C. Todd
James M. Trapp
Stanley A. Williams
Walter W. Winget

1962

Donors 100
Dollars $47,522
Participation 42%

CLASS AGENT
L. William Schmidt Jr.

$5,000 - $9,999
Roger B. Harris
Garo A. Partoyan

$2,500 - $4,999
William R. Nicholas
Carl M. Riseman

$1,000 - $2,499
Charles E. Blank
Peter D. Byrnes
Morton L. Efron
Michael R. Flyer
Karl L. Gotting
Amalya L. Kearse
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William B. Rees
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Bowen H. Tucker
Robert B. Wessling

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Walter T. Dartland
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John J. Timmer
David C. Tracey
Kent J. Vana
David A. Watts
David N. Weinman
Alvin Jay Wilson
John A. Wise Jr.
Ralph L. Wright
Robert J. Yock

1963

Donors 113
Dollars $64,110
Participation 33%

CLASS AGENT
John W. Galanis

$10,000 - $24,999
William Fred Hunting Jr.

$5,000 - $9,999
Herbert Kohn

$2,500 - $4,999
Alexander E. Bennett

$1,000 - $2,499
Justino H. Cacanindin
Robert C. Canfield
Stuart F. Feldstein
Lloyd C. Fell
Charles R. Frederickson III
John W. Galanis
Gerald L. Gherlein
Kenneth S. Handmaker
Robert L. Harmon
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Alvin V. Shoemaker
Richard K. Snyder
Philip Sotiroff
C. Peter Theut

*Deceased

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A. Paul Victor
Jackman Stroud Vodrey
Scott F. Zimmerman

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David A. Brock
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Dan Robert Bruggeman
Lawrence T. Buchmiller
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Robert Charles White
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Roger C. Wolf
Philip F. Wood

1964

Donors 96
Dollars $124,853
Participation 33%

CLASS AGENT
Stephen M. Wittenberg

$50,000 - $99,999
Carl D. Bernstein

$5,000 - $9,999
James D. Zirin

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Larry A. Pulkrabek

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Theodore L. Bendall Jr.
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James L. Copeland
Alan D. Croll
Irwin J. Dinn
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Kenneth P. Walz
Michael A. Warner
John Palmer Williams
James M. Wilsman
Robert J. Wojcik

1966

Donors 132
Dollars $230,808
Participation 37%

CLASS AGENT
Fred E. Schlegel

$100,000 +
Samuel Zell

$50,000 - $99,999
Ronald L. Olson

$5,000 - $9,999
Larry R. Dalton
J. Alan Galbraith
Benjamin F. Garmer III
Richard C. Sneed

$2,500 - $4,999
Joe Feldman

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Douglas M. Cain
Dewey B. Crawford
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HONOR ROLL

1967

Donors 150
Dollars $109,411
Participation 41%

CLASS AGENT
Christopher B. Cohen

$25,000 - $49,999
Joseph R. Seiger

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James P. Kleinberg
Jeffrey H. Miro
E. Miles Prentice III

$2,500 - $4,999
Robert S. Katz
William C. Pelster
Charles V. Thornton III

$1,000 - $2,499
Joseph H. Ballway Jr.
William M. Brodhead
Michael W. Coffield
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Roger M. Golden
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Donald A. Wascha
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David G. Wise
Michael W. York
John F. Zulack

1968

Donors 142
Dollars $64,420
Participation 43%

CLASS AGENT
Mark H. Scoblionko

$10,000 - $24,999
Stephen B. Diamond

$5,000 - $9,999
Martin C. Recchuite
Alfred J. Wiederkehr

$2,500 - $4,999
Charles E. Thomas Jr.

$1,000 - $2,499
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Carl H. von Ende
William S. Weaver
William R. Weber
Jay L. Witkin
Gary F. Wyner
Jack R. Zerby

1969

Donors 126
Dollars $123,071
Participation 35%

$25,000 - $49,999
David L. Haron

$10,000 - $24,999
Andrew S. Price
Stanley S. Stroup

$5,000 - $9,999
Marilynn J. Cason
Joseph L. McEntee Jr.

$2,500 - $4,999
Robert J. Kheel
Robert J. Millstone
James P. Murphy
Thomas M. O'Leary

$1,000 - $2,499
Charles Andrew Adamek
Lori Klein Adamek
Barry A. Adelman
Essel W. Bailey Jr.
Ladd A. Baumann
Charles W. Borgsdorf
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Spencer T. Denison
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Ralph L. Kissick
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Arnold M. Nemirow
Rickard F. Pfizenmayer

*Deceased

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Claude L. VanderPloeg
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Philip L. Weinstein
James G. Wells
Robert C. Wells
Steven Y. Winnick
David Woodbury
Lawrence E. Young

1971

Donors 133
Dollars $97,643
Participation 36%

CLASS AGENT
Howard A. Serlin

$10,000 - $24,999
Richard R. Burns

$5,000 - $9,999
Hobart M. Birmingham Jr.
Gerald Garfield
Wayne C. Inman
Robert E. McFarland
Edwin D. Scott

$2,500 - $4,999
Henry E. Fuldner
Geoffrey L. Gifford
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Paul D. Weaver
Gerald V. Weigle Jr.
Ralph G. Wellington
Larry C. Willey
Steven H. Winkler
Susan G. Wright
Howard B. Young
Robert J. Zitta

1972

Donors 148
Dollars $201,243
Participation 35%

CLASS AGENT
Kim L. Swanson

$50,000 - $99,999
Alan T. Ackerman

$10,000 - $24,999
William J. Abraham Jr.
Leonard J. Baxt
Joseph I. Goldstein
Terrence G. Perris
Dean C. Storkan
Robert J. White

$5,000 - $9,999
Jane Waterson Griswold
Paul L. Lee

$2,500 - $4,999
William J. Davis Jr.

$1,000 - $2,499
William T. Bisset
Zachary Dean Fasman
Saul A. Green
Jeffrey J. Greenbaum
Michael L. Hardy
Robert G. Kuhbach
Richard Paul Levy
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Robert James McCullen
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Bruce Alan Goldstein
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Richard R. Weiser
J. Bryan Williams
John D. Wilson Jr.
William B. Wilson
Richard G. Woodward
James S. Wulach
Robert Zegster
Joseph C. Zengerle III
David H. Zoellner

1973

Donors 156
Dollars $78,305
Participation 34%

CLASS AGENT
Quinn W. Martin

$10,000 - $24,999
Eric A. Oesterle

$5,000 - $9,999
John M. Nannes

$2,500 - $4,999
Russell S. Bohn
William J. Campbell Jr.
Edward A. Grossmann
Paul F. Hultin
James R. Jenkins
George D. Ruttinger

$1,000 - $2,499
Rupert M. Barkoff
Gene B. George
Steven F. Greenwald
Kathleen McCree Lewis
Curtis L. Mack
Quinn W. Martin
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1974

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Dollars $79,840
Participation 32%

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Darryl L. Snider

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Michael H. Morris
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Jerome A. Atkinson
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ANNUAL HONOR ROLL OF DONORS

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Dollars $57,750
Participation 27%

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Malcolm James Williams Jr.
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1977

Donors 90
Dollars $51,187
Participation 23%

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Kenneth R. Wylie
George Edward Yund

1978

Donors 96
Dollars $38,294
Participation 25%

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Dennis Earl Ross

$2,500 - $4,999

Jeffrey J. Jones

$1,000 - $2,499

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Danny R. Williams
Sandra Williams
Morley Witus
Mary Katherine Wold
Thomas Vance Yates
Mark D. Yura

1979

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Dollars $104,522
Participation 28%

CLASS AGENT

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$10,000 - $24,999

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$5,000 - $9,999

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1981

Donors 118
Dollars $50,769
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Robin Leaf Harrison
Gary C. Robb

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Richard Louis Wood
Noah Eliezer Yanich
Elizabeth Anne Zatina

1982

Donors 102
Dollars $38,472
Participation 25%

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James E. Brandt
Scott G. Mackin
Anita C. Robb
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Sara E. Werder
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Gifford R. Zimmerman

*Deceased

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HONOR ROLL

1983

Donors 97
Dollars $26,060
Participation 25%

CLASS AGENT
H. Mark Stichel

$2,500 - $4,999
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$1,000 - $2,499
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Anne Baldwin Gust
Paul M. Hamburger
David Allen Handelsman
Richard A. Schirtzer

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Linda M. Wakeen Walker
William R. Welke
Marc Wertheimer
J. Greg Whitehair
Timothy L. Williamson
Joseph D. Won

1984

Donors 93
Dollars $36,650
Participation 24%

CLASS AGENT
Robert J. Portman

$5,000 - $9,999
Stephen G. Tomlinson

$2,500 - $4,999
Patrick G. Quick
Paul B. Savoldelli

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Sandra A. Bulger
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1998

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