

LAW ALUMNI NEWS

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UNIVERSITY OF MINNESOTA



The Law School's Next Century



The Dean's Perspective



Dean E. Thomas Sullivan

In this issue of the Law Alumni News, we feature the new Capital Campaign at the Law School—Campaign Minnesota: The Law School's Next Century. As a law school, we have a responsibility to our students, alumni, the legal community, and the greater society to ensure that our law students receive the best available legal education and training. To remain an influential force in legal education for the new century, we have defined a vision that will enable this Law School to make a dramatic leap forward ensuring our continued leadership among the front-ranks of American law schools.

The complexities of 21st century law, society, and technology place unprecedented demands upon our graduates. They must be ready to solve problems confidently, ethically, and adroitly, applying not only theorems and abstract knowledge, but insights attained through skills training and real-life clinical experiences. With the success of Campaign Minnesota: The Law School's Next Century, this Law School will be the first law school in the country to offer a fully integrated curriculum uniting theory and doctrine with skills and practice. We believe our Law School is uniquely positioned already so that the success of our Campaign will permit us to achieve this goal. We can be defined as an institution by our ability to do this better than any other law school. As Elliot Kaplan, Chair of the Capital Campaign, has remarked, "Our goal is to have a state-of-the-art law school with the capacity for delivering first-rate teaching through world-class resources and state-of-the-art technology."

We want our students to be able to perceive and understand that the curriculum is and should be a seamless web from integrating theory, doctrine and skills into how law is actually practiced on behalf of clients. In order to make sure that our nationally-recognized faculty and our very talented students are performing at high levels, we have to have a physical space and environment that encourage the very best in our faculty and students. The Capital Campaign strategically connects these values and goals. Each of these elements is connected: physical surroundings that are conducive to new technology and new pedagogy, expanded clinical and lawyering skills programs, funds for expanding the library, technology, and faculty development.

One of the challenges in the Campaign is to inform our constituencies of the fact that the Law School today receives only approximately 15 percent of its total \$20 million budget from state revenues. Approximately \$3 million is received from the state of Minnesota, the balance in revenue comes from interest from endowments, private fund raising through the Partners in Excellence annual fund drive and the Capital Campaign, and tuition receipts. We receive the smallest percentage of state funds relative to the total budget of any academic unit on campus, and when compared with other law schools we certainly receive, as a percentage, one of the smallest portions from state funding. Clearly, without the generosity of alumni and friends of the Law School, the Law School would not be ranked regularly as it is today within the top twenty law schools within the United States.

As we enter the new century, the new building addition will breath exciting new life into the Law School complex. The building addition, will provide a state-of-the-art complex that will enable us to attract the highest quality students. This is true particularly if we are able to compete more aggressively through financial aid and scholarships. Unquestionably, our law library is a national treasure. It is ranked in the top five or six in the United States and serves more than 250,000 patrons per year. The rare book collection is world-renowned, next only to the Library of Congress, Harvard Law School, and the University of California, Berkeley. Our lawyering skills and clinical program is at the top of its field in the percentage of students graduating from law school with clinical experiences. Because technological breakthroughs occur with such speed, we must be able to respond with immediate technology advances, both for research and teaching. Innovative faculty teaching and research infuse the Law School's curriculum with depth and freshness. In order to recruit and retain a national faculty, we must continue to compete for their talents with the best law schools.

In summary, this Capital Campaign is necessary to meet extraordinary challenges. A first-rate legal education in the 21st century requires dramatically more complex and extensive programming than even 20 years ago. The rapid transformation of American legal education presents an extraordinary challenge and opportunity for the Law School. With this Capital Campaign, we will move ahead of the curve with special strategic funding to advance us in the ranks of America's best legal educational institutions.

Your support and advice continue to inspire us to be the best we can be. Your investment in the Capital Campaign will ensure the quality and reputation of your alma mater in the new century.

E. Thomas Sullivan
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The Symmetry of Expansion and History

Campaign Minnesota: The Law School's Next Century

By *Tricia Baatz Torrey*

Among the figurative bricks that pave the road of a productive life are the well-worn stones of education, burnished to a patina by the collective numbers and years. Memory preserves an institution, but real time requires maintenance and expansion, a balance of dedication and tradition, of bricks and mortar.

The Law School is now in the midst of a capital campaign with five targeted objectives and a goal of 30 million dollars. The objectives include 7-million dollar goals for both the building fund and scholarship endowment, and 5-million dollars each for the library, lawyering skills and clinic, and technology endowments.



Elliot Kaplan

Elliot Kaplan, ('61), of Robins, Kaplan, Miller and Ciresi and chair for the campaign, said, "We're aiming to have a state-of-the-art law school with a capacity for higher technology. We also want to be able to address current issues, provide better facilities, and improve and expand our library to continue to keep it as one of the best in the country. The benefits of a successful capital campaign will allow us to spend more time and effort with our lawyering skills and clinical programs and to provide financial assistance to students in need."

Kaplan added, "I feel it's my obligation to give back to the Law School; I hope other alumni feel the same."



Catherine Ludden

Catherine Ludden, ('79), a partner with Morgan, Lewis and Bockius in New York and a vice-chair for the capital campaign said that "as an alumna practicing outside of Minnesota, it's important to me that the Law School is viewed as being strong and as one of the top law schools in the country. Anything that can be done to enhance that image is good for all the graduates of the Law School... That's why I've remained really active in Law School affairs and contribute to the Law School with both time and money."

Dean E. Thomas Sullivan spoke of the overarching theme of the campaign, citing the Law School's ability to "really integrate a first-rate curriculum with the student's perspective. To be able to do that we must be able to attract and retain a first-rate faculty. We have talented students, and together with the faculty they make the core of the Law School. In order to make sure that both are performing at a high level, we have to have a physical space and environment that encourages the best. The capital campaign really connects to these values and goals."

Dean Sullivan touched on each of the campaign objectives, stressing the importance of expanding the curriculum to make sure students are well-educated and prepared to enter legal practice.

"Each of these elements is connected: physical surroundings that are conducive to new technology and the new pedagogy, expanded clinical and lawyering skills programs, funds for expanding the library and areas of technology. It's a big undertaking but we're doing very well."

Sullivan did add, however, that one of the obstacles, historically speaking, to raising funds is the idea that the State Legislature takes care of the University. "Only 15 percent of our budget comes from the State," Sullivan said. "That's only 3 million out of a 20 million dollar budget."



Collins Byrd

Collins Byrd, Director of Admissions at the Law School, spoke to the issue and importance of the scholarship endowment, both in terms of helping students offset the rising cost of a legal education, and in terms of attracting talented students to the school. "We are offering scholarships to people who are generally in the top 20 percent of all law school applicants, people who have done really well and are being accepted at the top law

schools. Law schools are becoming much more competitive based on the reputation and quality of the entering class; they are a vital part of the picture. If we don't have the resources to attract those people and support them through law school, we will not be able to retain our reputation."

He added that law students are not allowed to work their first year, and while part-time work during second and third years is an option, income from that employment would not be enough to cover the cost of school. "I think it's important, in terms of support to employ the 'cradle to grave concept,' to support them through school, as they graduate and as they continue their careers after law school. Scholarships are a good way to do that. It's a big part, a really big part."



Phil Carruthers

Phil Carruthers, ('79), is a State Representative from Brooklyn Center, and a co-chair for the Clinic endowment. He feels strongly that a clinical education is a very critical part of a legal education. "Other professions have done a better job than the legal profession of providing practical experience for their students... The law profession is getting much better, but we still have improvements that we have to make. Not all students, for example, are able to get into the clinical programs they want to take, so there's a big demand by students, and we should make every effort to make it available."

"Just as it was when I went to Law School, the library continues to be the heart of the scholarship of the whole legal

education enterprise," said William Lindberg, co-chair of the Library endowment fund and president of Ash Grove Group. Lindberg, who is former head of West Publishing's Academic Program, further described the University of Minnesota Law Library as the epicenter of the school and community, saying, "Everyone from high school debate teams to large firms, when they need legal materials, will call the Minnesota Law Library."



William Lindberg

Lindberg spoke of the importance of continued support for the expansion and maintenance of the library, especially in view of its uniqueness as a rich resource both in terms of new technology and in its collection of rare books and documents. He said, "Because of the stewardship of many great law librarians, including Arthur Pulling and Bruno Greene, Kathy Price and currently Joan Howland, this library has a tremendous collection."

"Even more than a sense of purpose or vocation, the information support function of the University of Minnesota Law Library sustains us in a society that's presumably governed by a rule of law, and sort of a codified, widely disseminated body of law—being able to retrieve that information in a pertinent way, so that you can bring it to bear on a dispute and have some meaningful application of that law. Not every culture has had that sort of access, and we sometimes take it for granted."

As director of the Law Library and the Technology/Computerization program, Professor Joan Howland is enthusiastic about the applications of the technology endowment.



Joan Howland

"We want to integrate substantive aspects of Law School in the sense of having courses such as Cyberlaw, E-Commerce, Patents, Trademarks and Copyright, but we also very much want to make sure that we have technology as part of our skills training for the law students as they will be prepared to utilize the technology that they'll find they need in practice as well as in the courtrooms when they leave the law school."

She added that Professor Steve Befort, Director of the Legal Clinics, is especially interested in making sure that we utilize technology not only for research but also for document management in the litigation process, and to work with other attorneys in facilitating that process.

Howland noted that the students entering the Law School are very "technologically sophisticated" and eager to learn more. "We also find every year that more of our students, in their decision to select a law school, are considering how technologically sophisticated that law school is as well as what's offered in the curriculum having to do with the intersection of technology and the law." ■

Race, “Get Tough” Crime Politics, and the Transformation of the Juvenile Court

By Barry C. Feld, Centennial Professor of Law

In the past three decades, judicial decisions, legislative amendments, and administrative changes have transformed the juvenile court from a nominally rehabilitative social welfare agency into a scaled-down second-class criminal court for young offenders that provides them with neither therapy nor justice. In a recent book, *Bad Kids: Race and the Transformation of the Juvenile Court*,¹ I attribute the transformation of the juvenile court to the role of race in American society and law the great migration of African-Americans from the rural south to the urban north that began three-quarters of a century ago, the macro-structural transformation of American cities and the economy over the past quarter of a century, and the current linkages in the popular and political culture between race and serious youth crime. In *Bad Kids*, I argue that two competing cultural and legal conceptions of young people facilitate the transformation to a more punitive juvenile justice system. On the one hand, legal culture views young people as innocent, vulnerable, fragile, and dependent *children* whom their parents and the state should protect and nurture. On the other hand, the legal culture perceives young people as vigorous, autonomous and responsible almost *adult-like* people from whose criminal behavior the public needs protection.

The ambivalent and conflicted “jurisprudence of youth” enables policy makers selectively to manipulate the competing social constructs of *innocence* and *responsibility* to maximize the social control of young people. Over the past three decades, juvenile justice legal reforms have used these alternative constructs to conduct a version of “criminological triage.” At the “soft-end” of juvenile courts’ jurisdiction, reforms have shifted non-criminal status offenders out of the juvenile system into a “hidden system” of social control in private-sector mental



Barry C. Feld

health and chemical dependency facilities. At the “hard end” of juvenile courts’ jurisdiction, states transfer increasing numbers of youths into the criminal justice system for prosecution as adults. For those delinquents who remain in an increasingly criminalized juvenile justice system, juvenile court sentencing policies and practices escalate the punishments they receive. In this article, I briefly summarize the transformation of the juvenile court from a social welfare agency into a deficient criminal court. I suggest the linkages between broader social structural and racial demographic changes and the increased punitiveness of juvenile justice policies.

The Juvenile Court

The juvenile court is the by-product of changes in two cultural ideas that accompanied modernization and industrialization a century ago: childhood and social control. Social structural changes associated with the shift from an agricultural to an urban industrial society, and the separation of work from the home produced a newer social construction of children as innocent, dependent, and vulnerable.² Progressive “child-savers” used the new imagery of childhood to advance a number of reform agendas: compulsory school attendance, child labor, and

child welfare laws. A more modern, scientific conception of social control embraced positivist criminology and medical analogies to treat offenders rather than to punish them for their offenses. Positivism attempted to identify the antecedent variables that caused crime and deviance and challenged the classic formulation of crime as the product of blameworthy, free-will choices. By attributing criminal behavior to external and deterministic forces, Progressive reformers reduced an actor’s moral responsibility for crime and focused on efforts to reform rather than to punish the offender. The juvenile court combined the new conception of children with new strategies of social control to produce a judicial-welfare alternative to criminal justice, to remove children from the adult process, to enforce the newer conception of children’s dependency, and to substitute the state as *parens patriae*.

Procedure and substance intertwined in the juvenile court. Procedurally, juvenile courts used informal processes, conducted confidential hearings, and employed a euphemistic vocabulary to obscure and disguise the reality of coercive social control. Substantively, juvenile courts used indeterminate, non-proportional dispositions, emphasized treatment rather than punishment, and focused on offenders’ future welfare rather than past offenses. Despite benevolent rhetoric, however, Progressive “child-savers” deliberately designed the juvenile court to discriminate to “Americanize” immigrants and the poor and to provide a coercive mechanism to distinguish between “our children” and “other people’s children.”

In their pursuit of the “Rehabilitative Ideal,” Progressives situated the juvenile court on a number of cultural, legal, and criminological fault lines. They created several binary conceptions for the juvenile and criminal justice systems: either

child or adult; either determinism or free-will; either dependent or responsible; either treatment or punishment; either welfare or deserts; either procedural informality or formality; either discretion or the rule of law. The past three decades have witnessed a tectonic shift from the former to the latter of each of these binary pairs in response to the structural and racial transformation of cities, the rise in serious youth crime, and the erosion of the rehabilitative assumptions of the juvenile court.

The Transformation of the Juvenile Court

During the 1960s, the Warren Court's civil rights decisions, criminal due process rulings, and "constitutional domestication" of the juvenile court responded to broader structural and demographic changes taking place in America, particularly those associated with race and youth crime. In the decades prior to and after World War II, Black migration from the rural south to the urban north increased minority concentrations in urban ghettos, made race a national rather than a regional issue, and provided the impetus for the Civil Rights movement.³ World War I curtailed European immigration and created a demand for black southern laborers to work in northern industrial factories. During this same period, the mechanization of cotton-picking decreased southern demand for black workers. Between 1910 and 1920, more than half-million blacks migrated to non-southern states, followed by more than three-quarters of a million in the 1920s. In the decade following the Depression and in response to industrial opportunities during World War II, black out-migration from the South exceeded one and half million. When blacks left the rural South, they moved primarily to cities. In the span of half a century, blacks shifted from about three-quarters living in rural environments to three-quarters residing in urban settings. In 1870, 80% of black Americans lived in the rural south; by 1970, 80 percent of black Americans resided in urban locales, half in the North and West.⁴

The 1960s also witnessed the "baby boom" increases in youth crime that continued until the late-1970s. During the 1960s, the rise in youth crime and urban racial disorders provoked cries for "law and order" and provided the initial political impetus to "get tough." Republican politicians seized crime control and welfare as racially-tinged wedge issues with which to distinguish themselves from Democrats in order to woo white southern voters, and crime policies for the first time became a central issue in partisan politics.⁵ Since the 1960s, as a result of

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"sound-bite" politics and demagogic appeals, symbols and rhetoric have shaped penal policies; politicians' fear that their opponents would label them as "soft-on-crime" has led to a constant ratcheting-up of punitiveness. Efforts to "get tough" have supported a succession of "wars" on crime and, later on drugs and juveniles, longer criminal sentences, increased prison populations, and disproportional incarceration of racial minorities.

The Supreme Court's due process decision in the 1960s responded to the macro-structural and racial demographic changes, and attempted to guarantee civil rights, to protect minority citizens, and to limit the authority of the state. *In re Gault*⁶ began to transform the juvenile court into a very different institution than the Progressives contemplated. *Gault* demonstrated the linkage between procedure and substance in the juvenile court and engrafted some formal proce-

dures at trial onto the individualized treatment schema. Although the Court did not intend to alter juvenile courts' therapeutic mission, in the aftermath of *Gault*, judicial, legislative, and administrative changes have fostered a procedural and substantive convergence with criminal courts.⁷ *Gault* shifted the focus of delinquency hearings from "real needs" to proof of legal guilt and formalized the connection between criminal conduct and coercive intervention. Providing a modicum of procedural justice also legitimated greater punitiveness in juvenile courts. Thus, *Gault*'s procedural reforms provided the impetus for the substantive convergence between juvenile and criminal courts, so that for most purposes juvenile courts today constitute a wholly-owned subsidiary of the criminal justice system. In *McKeiver v. Pennsylvania*,⁸ however, the Court denied to juveniles the constitutional right to jury trials in delinquency proceedings. *McKeiver* relied on the purported differences between juvenile courts' *treatment* and criminal courts' *punishment* to justify the procedural distinctions between the two systems.

Juvenile Courts' Procedural Deficiencies

Unfortunately, *Gault* constituted an incomplete procedural revolution and a substantial gulf still remains between the "law on the books" and the "law in action." States continue to manipulate the fluid concepts of children and adults, or treatment and punishment in order to maximize the social control of young people. On the one hand, states treat juveniles just like adults when formal equality results in practical inequality. For example, states use the adult standard of "knowing, intelligent, and voluntary under the totality of the circumstances" to gauge juveniles' waivers of rights,⁹ even though juveniles clearly lack the competence of adults to make such decisions. Research on juveniles' waivers of *Miranda* rights¹⁰ and waivers of their right to counsel provide compelling evidence of the procedural deficiencies of the juvenile court.¹¹ On the other hand, even as juvenile courts have become more punitive, most states continue to

deny juveniles access to jury trials and other procedural rights guaranteed to adults.¹² Juvenile courts provide a procedural regime in which few adults charged with crimes and facing the prospect of confinement would consent to be tried.

Criminological Triage

Despite their procedural deficiencies, juvenile courts' increased formality have provided the impetus to adopt substantive "criminological triage" policies. This process entails diverting non-criminal status offenders out of the juvenile system at the "soft" end, waiving serious offenders for adult criminal prosecution at the "hard" end, and punishing more severely the residual, middle-range of ordinary delinquent offenders.

Diverting Status Offenders

At the "soft" end, judicial and legislative disillusionment with juvenile courts' responses to noncriminal youths have led to diversion, deinstitutionalization, and decriminalization reforms. Deinstitutionalization reduced juvenile courts' access to secure facilities for non-criminal offenders. It provided the impetus to transfer many white, female and middle-class youths whom juvenile courts formerly handled as status offenders into the private sector system of mental health and chemical dependency treatment and confinement.¹³

Waiving Serious Offenders

At the "hard" end, as a result of recent "get tough" laws, judges, prosecutors, and legislators transfer increasing numbers of younger offenders to criminal courts for prosecution as adults.¹⁴ In an effort to "crack down" on youth crime, legislators exclude various combinations of age and offenses from juvenile courts' jurisdiction, and then further expand the lists of excluded offenses and reduce the age of criminal responsibility.¹⁵

The "get-tough" juvenile justice policies of the early-1990s reflect macro-structural, economic, and racial demographic changes in cities during the 1970s and

1980s, the emergence of the black underclass, and the epidemic of "crack" cocaine and the associated escalation in gun violence and youth homicides.¹⁶ Between World War II and the early-1970s, semi-skilled high school graduates could get good-paying union jobs in the automobile, steel, and construction industries. Beginning in the 1970s, the transition from an industrial to an information and service economy reduced employment opportunities in the manufacturing sectors and produced a bifurcation of economic opportunities based on skills and

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education. During the post-World War II period, government highway, housing, and mortgage policies encouraged suburban expansion around the urban centers. The migration of whites to the suburbs, the growth of information and service jobs in the suburbs, the bifurcation of the economy, and the de-industrialization of the urban core increased racial segregation and the concentration of poverty among blacks in the major cities.¹⁷ In the mid-1980s, the emergence of a structural underclass, the introduction of "crack" cocaine into the inner cities, and the proliferation of guns among youth produced a sharp escalation in black youth homicide rates.

The age-offense-race-specific increase in youth homicide provided further political impetus to "get tough" and to "crack down" on youth crime. Since the mid-

1960s, police have arrested black juveniles under eighteen years of age for all violent offenses murder, rape, robbery, and assault at a rate about five times greater than that of white youths and for homicide at a rate more than seven times greater than white youths.¹⁸ Beginning in 1986, youth homicide rates began to escalate sharply—between 1986 and 1993, arrests of white juveniles for homicide increased about 40 percent, while those of black youths jumped by 278 percent. Significantly, guns were the proximate cause of the sharp escalation of youth homicide that began in the mid-1980s. Although the number of homicide deaths that juveniles caused by means other than firearms fluctuated within a "normal range," between 1984 and 1994, the number of deaths caused by firearms increased 412 percent. Thus, in the span of a decade, arrests of adolescents for killing nearly tripled and the use of firearms by juveniles accounted for almost the entire increase in youth homicide. The intersections of race, guns, and homicide fanned the public "panic" and political "crack down" that, in turn led to the recent "get tough" reformulation of juvenile waiver policies. In this context, because of differences in rates of offending by race, "getting tough" on violence meant targeting young black men. The mass media depict and the public perceive the "crime problem" and juvenile courts' clientele primarily as poor, urban black males. Politicians manipulate and exploit these racially-tinged perceptions for political advantage with demagogic pledges to "get tough" and "crack down" on youth crime which has become a "code word" for young black males.

These "get-tough" waiver policies reflect juvenile courts' broader jurisprudential changes from rehabilitation to retribution. The overarching themes of these legislative amendments include a shift from individualized justice to just deserts, from offender to offense, from "amenability to treatment" to public safety, and from immature delinquent to responsible criminal. State legislatures use offense criteria in waiver laws either as dispositional guidelines to structure and limit judicial discretion, to guide prosecutorial

charging decisions, or automatically to exclude certain youths from juvenile court jurisdiction.¹⁹

These trends in waiver policy also reflect a fundamental cultural and legal reconceptualization of youth from innocent and dependent to responsible and autonomous. Politicians' "sound-bites"—"adult crime, adult time" or "old enough to do the crime, old enough to do the time"—reflect typical criminal policies that provide no formal recognition of youthfulness as a mitigating factor in sentencing. Once youths make the transition to the adult system, criminal court judges sentence them as if they are adults, impose the same sentences, send them to the same prisons and even execute them for the crimes they committed as children.²⁰

Punishing Ordinary Delinquents

Finally, the "criminological triage" process has resulted in increased punishment of those ordinary delinquents who remain within the jurisdiction of juvenile justice system.²¹ Legislative preambles and court opinions explicitly endorse punishment as an appropriate component of juvenile sanctions. States' juvenile sentencing laws increasingly emphasize responsibility and accountability, and provide for determinate and/or mandatory minimum sentences keyed to the seriousness of the offense.²² These statutory provisions use principles of proportionality and determinacy to rationalize sentencing decisions, to increase the penal bite of juvenile sanctions, and to allow legislators symbolically to demonstrate their toughness.

Two general conclusions emerge clearly from empirical research evaluating juvenile court judges' sentencing practices. First, the "Principle of Offense"—present offense and prior record—accounts for most of the variance in juvenile court sentences that can be explained. Every methodologically rigorous study of juvenile court sentencing practices reports that judges focus primarily on the seriousness of the present offense and prior record when they sentence delinquents.²³

Secondly, after controlling for legal and offense variables, the individualized justice of juvenile courts produces racial disparities in the sentencing of minority offenders.²⁴ In 1988, Congress amended the Juvenile Justice and Delinquency Prevention (JJDP) Act to require states receiving federal funds to assure equal treatment on the basis, inter alia, of race, and to identify the sources of minority over-representation in detention facilities and institutions.²⁵ In response to this JJDP Act mandate, a number of states found racial disparities in their juvenile justice

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systems and reported that cumulative decisions by court personnel amplify these racial disparities as youths move through the system. By 1991, juvenile courts confined less than one-third (31 percent) of non-Hispanic white juveniles in correctional facilities; minority youths comprised more than two-thirds (69 percent) of confined youths.

Juvenile courts, as extensions of criminal courts, give primacy to offense factors when they sentence youths. To the extent that *parens patriae* ideology legitimates individualization and differential processing, it also exposes "disadvantaged" youths to the prospects of more extensive intervention. According to juvenile court's treatment ideology, judges' discretionary decisions *should* disproportionately affect minority youths because Progressives intended judges to focus on youths' social circumstances rather than simply their offenses and designed them to discriminate between "our" children and "other people's children." In a society character-

ized by great inequality, those most "in need" are also most "at risk" for juvenile court intervention.

Examining juvenile correctional facilities and evaluating their effectiveness provides another indicator of the increased punitiveness of juvenile justice. Evaluations of juvenile correctional facilities in the decades following *Gault* reveal a continuing gap between the rhetoric of rehabilitation and the punitive reality.²⁶ Criminological research, judicial opinions, and investigative studies report staff beatings of inmates, the use of drugs for social control purposes, extensive reliance on solitary confinement, and a virtual absence of meaningful rehabilitative programs.²⁷ Despite "rehabilitative rhetoric" and a euphemistic vocabulary, the simple truth is that juvenile court judges increasingly consign disproportionately minority offenders to overcrowded custodial warehouses that constitute little more than youth prisons.

Evaluations of juvenile "treatment" programs provide little evidence that training schools—the most common form of institutional treatment for the largest numbers of serious and chronic delinquents—effectively treat youths or reduce their recidivism rates.²⁸ Despite these generally negative results, proponents of the traditional juvenile court continue their quest for the elusive "rehabilitative" grail and offer literature reviews, meta-analysis, or program descriptions that report that some interventions do produce positive effects on selected clients under certain conditions.²⁹ Even though some programs apparently "do work" for some offenders under some circumstances and improve juveniles' life-chances, most states do not provide these services to delinquents generally. Rather, they confine most delinquents in euphemistically-sanitized youth prisons with fewer procedural safeguards than adults enjoy.

The Juvenile Court, Crime Control, and Child Welfare

Juvenile courts punish rather than treat young offenders, but use a procedural regime under which no adult would con-

sent to be tried. The fundamental shortcoming of the juvenile court is a failure of conception and not *simply* a century-long failure of implementation. The juvenile court's creators envisioned a social service agency in a judicial setting and attempted to fuse its welfare mission with the power of state coercion. Combining social welfare and penal social control functions in one agency assures that juvenile courts do both badly. Providing for child welfare represents a societal responsibility rather than a judicial one. Juvenile courts lack control over the resources necessary to meet child welfare needs exactly because of the social class and racial characteristics of their clients and the public's fear of "other people's children."

In *Bad Kids*, I argue that states should uncouple social welfare from social control. On the one hand, I propose to abolish the juvenile court and to try all offenders in one integrated criminal justice system. In *Bad Kids*, I describe substantive and procedural modifications of criminal courts necessary to accommodate the youthfulness of some defendants. In particular, I offer a rationale to sentence younger offenders differently, and *more leniently*, than older defendants, a formal recognition of *youthfulness as a mitigating factor*. I argue that we honestly should acknowledge that juvenile courts currently engage in criminal social control, assert that younger offenders in a criminal justice system *deserve* less severe penalties for their misdeeds than do more mature offenders *simply because they are young*, and address many problems created by trying to maintain binary, dichotomous, and contradictory criminal justice systems based on an arbitrary age classification of a youth as a child or as an adult.

Uncoupling social welfare from crime social control also would enable public policies to address directly the "real needs" of all children regardless of their criminality. Social structural forces, political economic arrangements, and legal policies affect the social conditions of young people. A century ago, Progressive reformers had to choose between initiating social reforms that would ameliorate

criminogenic forces or ministering to the individuals damaged by those adverse structural conditions. Driven by class and ethnic antagonisms, they ignored the social-structural implications of their delinquency theories and chose instead to "save children" in a juvenile court and, incidentally, to preserve their own power and privilege.³⁰

A century later, we confront the same choice between "rehabilitating" damaged individuals and initiating social structural changes. A society that cares for the welfare of its children does so directly by sup-

Providing for child welfare represents a societal responsibility rather than a judicial one.

porting families, communities, schools, and social institutions that nurture all young people, and not by cynically incarcerating its most disadvantaged children and pretending that it is "for their own good." It is unrealistic to expect juvenile courts or any other justice institutions to ameliorate the social ills that affect young people or to significantly reduce youth crime.

The social order significantly determines young people's access to opportunities and the lives they may fashion for themselves as adults. A society committed to equality of opportunity must adopt policies to assure that all children, regardless of their parents' socio-economic circumstances, have at least a fair start and a meaningful chance to succeed. Current public policies contribute to the social isolation of many youths, the desperate poverty of more than one child in five, and the high rates of criminality that prevail among young people in general and urban black males in particular.³¹

Three aspects of youth crime and violence suggest future social welfare policy directions regardless of their immediate impact on recidivism. First, it is imperative to provide a hopeful future for all young people. As a result of structural and economic changes since the 1980s, the ability of families to raise children, to prepare them for the transition to adulthood, and to provide them with a more promising future has declined. Many social indicators of the status of young people—poverty, homelessness, violent victimization, and crime—are negative and some of those adverse trends are accelerating. Without realistic hope for their future, young people fall into despair, nihilism, and violence. Second, the disproportionate over-representation of minority youths in the juvenile justice system forces us to confront the issue of race in American society and makes imperative the pursuit of racial and social justice. The increasing and explicit punitiveness of juvenile justice policies emerge against the backdrop of the structural transformation of cities, the de-industrialization of the urban core, and the emergence of a threatening black urban "underclass" living in racial isolation and concentrated poverty. A generation ago, the National Advisory Commission on Civil Disorders, The Kerner Commission, warned that the United States was "moving toward two societies, one black, one white—separate and unequal."³² Today, we reap the bitter harvest of racial segregation, concentrated poverty, urban social disintegration, and youth violence sown by social policies and public neglect a generation ago. Third, youth violence has become increasingly lethal as the proliferation of handguns transforms adolescent altercations into homicidal encounters. Only public policies that reduce and reverse the proliferation of guns among the youth population will stem the carnage. While politicians may resist investing scarce social resources in young criminals, particularly those of other colors or cultures, a demographic shift and an aging population give all of us a stake in our young people and encourage us to invest in their human capital for their well-being as well as for our own, and to maintain an inter-generational compact.

End Notes

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Faculty Research and Development

STEPHEN F. BEFORT published two law review articles relating to employment topics during the current school year. The first, entitled "Mental Illness and Long-Term Disability Plans Under the Americans with Disabilities Act," was published in the fall of 1999 in the *University of Pennsylvania Journal of Labor and Employment Law*. The second article, co-authored with Christopher Kopka ('98), is entitled "The Sounds of Silence: The Libertarian Ethos of ERISA Preemption," and was issued early in 2000 by the *University of Florida Law Review*. Professor Befort also prepared a 1999 Supplement to his *Employment Law and Practice* book for West Publishing. In December 1999, he presented a paper on "Ten Cutting-Edge Issues Under the Americans with Disabilities Act" at a conference sponsored by the Labor Arbitration Institute. The Institute included the paper in its published proceedings, *Labor Law and Labor Arbitration 1999*. Professor Befort, along with co-author Lydia Potthoff (2L), contributed an article on "WARN Act Developments" for the fall 1999 edition of *Labor and Employment Law News*, a publication of the Minnesota State Bar Association.

ELIZABETH HEGER BOYLE researches international and comparative law from a sociological perspective. In "Is Law the Rule? Using Political Frames to Explain Cross-National Variation in Legal Activity," forthcoming in *Social Forces*, Professor Boyle uses statistics to assess how state centralization and other aspects of political structure influence the use of legal systems above and beyond the individual interests involved. In "Gesture Without Motion? Poetry and Politics in Africa," forthcoming in *Human Rights Review*, she defends the South African Truth and Reconciliation Commission as a positive and concrete influence on the enforcement of human rights globally. Professor Boyle presented "Modern Law as a Global Institutional Model" at a plenary panel on law and globalization at the annual meetings of the American Sociological Association in Chicago in August,

1999. The presentation included the preliminary results of her research which has been funded by the National Science Foundation: "The Adoption and Enforcement of Anti-Female-Genital-Cutting Laws."

DAN L. BURK recently completed his term as chair of the Law & Computers Section of the American Association of Law Schools by organizing a program on "Who Owns Data in the 21st Century?" for the national meeting in Washington, D.C. Over the past several months, Professor Burk has been active in speaking to professional organizations on issues of intellectual property. In October, he addressed the Twin Cities International Television and Video Association on the subject "Copyright in Film and Video," at their annual luncheon. In March, Professor Burk presented workshops on copyright and distance learning to the meeting of the New Jersey Intercampus Network, and to the Annual Meeting of the Council of Independent Colleges in Pittsburgh. In May, he spoke on "Beyond Domain Names: Trademarks and the Internet" at the 12th Annual Computer Law Conference sponsored by the University of Texas in Austin, and in April he addressed the Annual Meeting of the New Jersey Library Association on "Beyond Copyright: Control of Information in the 21st Century." In February of 2000, he participated in the Pew Symposium on "Who Owns Online Courses and Course Materials?," in Miami Florida, and subsequently flew to Washington D.C. to address the national Meeting of the American Association for the Advancement of Science on "Publication and Control of Scientific Data." In March Professor Burk also presented his work in progress, "DNA Rules: Replacing Law with Biological Code" at a symposium series sponsored by the University of Minnesota Center for Bioethics. During October, Professor Burk presented his paper on "The Trouble With Trespass" at Lewis & Clark College in Portland, Oregon; it will appear in that school's *Journal of Small and Emerging Business Law*. In

October he also presented his paper on "Virtual Exit in the Global Information Economy" now published in the *Chicago-Kent Law Review*, at the University of Minnesota's Carlson Graduate School of Management Graduate Colloquium in Information and Decision Sciences. In June he presented his paper "Cyberlaw and the Norms of Science" at the Seventh Annual Conference on Technology and Ethics held at Boston College; the paper will appear in the *Boston College Intellectual Property and Technology Forum*. He is currently completing revisions on a new article, "Patenting Speech," which was presented in September at the 27th Annual Telecommunications Policy and Research Conference in Arlington, Virginia. In addition to these presented articles, he recently published "Muddy Rules for Cybespace" in the *Cardozo Law Review*, and has authored a book chapter on "Intellectual Property Issues in Electronic Collaboration" which will appear in a forthcoming volume of *Progress in Neuroinformatics*.



Karen C. Burke

KAREN C. BURKE published a second edition of her book, *Federal Income Taxation of Partners and Partnerships* in 1999. In addition, she published a co-authored book review, "Perspectives on Social Security Reform," in the *Florida Tax Review*. She also completed a co-authored article, "Social Security Reform: Risks, Returns, and Race," which will appear this spring in the *Cornell Journal of Law & Public Policy*. Professor Burke's most recent

article, "Reassessing the Administration's Proposals for Reform of Subchapter K," has been accepted for publication in *Tax Notes*. She also worked on a co-authored article on regulation and administration of funded social security accounts under a partially privatized system; the article is expected to appear as part of a forthcoming symposium. During the spring, Professor Burke also continued her active involvement as a Consultant to the American Law Institute's Federal Income Tax Project on Pass-Through Entities. The conclusions of the ALI project were published as a Reporters' Study in July 1999. During 1999, Professor Burke was appointed to the Dorsey & Whitney Professorship in Law. She delivered her inaugural lecture, "Retirement Security: Reform, Ideology and Administration," in March 2000. During spring 1999, Professor Burke visited at Boston College Law School.

JIM CHEN has been reappointed Vance K. Opperman Research Scholar for the 1999–2000 academic year. He is continuing his research on the aftermath of the Telecommunications Act of 1996. He has spoken on the local competition provisions of the Act at the 1999 Canadian Law and Economics Association conference in Toronto and at a symposium sponsored by the *University of Colorado Law Review*. In December 1999, he presented a workshop about telecommunications mergers for the Vanderbilt University Law School. He completed an article, "Globalization and Its Losers," for the *Minnesota Journal of Global Trade*. A new member of the governing board for FairVote Minnesota, Professor Chen has advocated reforming the Minnesota legislature to provide for proportional representation in lieu of traditional single-member districting.

LAURA J. COOPER participated in a panel on academics as labor arbitrators at the Fall Continuing Education Conference of the National Academy of Arbitrators in Montreal, Quebec. She made a presentation on Technology and Pedagogy, illustrating the use of computers in law school teaching, at an international conference of the Labor Law Group in

Scottsdale, Arizona. This summer, West Group will be publishing her co-authored textbook, *ADR in the Workplace* (with Dennis R. Nolan and Richard A. Bales) and a *Workplace ADR Simulations and Teacher's Guide* (with Carolyn Chalmers). Professor Cooper will be teaching an introductory course on American law at Uppsala University School of Law in the spring.



Daniel A. Farber

DANIEL A. FARBER spent the second half of the winter as a visiting professor at the University of Chicago Law School. He also completed a number of scholarly projects: a paper on the Internet and the First Amendment for a symposium at Georgia State; an article testing whether the sharp theoretical disagreements of two leading federal judges about statutory interpretation actually result in major differences in outcomes (the answer is no); an article on statutory interpretation for a symposium at SMU; two book reviews for *Constitutional Commentary*; a paper on reinventing environmental regulation for a symposium at Illinois; a book-length manuscript on constitutional theories with Professor Suzanna Sherry; and a symposium article on federalism and Eleventh Amendment immunities. The book on constitutional theory, tentatively titled *Desperately Seeking Certainty: The Misguided Quest for Constitutional Foundations*, provides in-depth critiques of six leading theorists (Bork, Scalia, Epstein, Amar, Ackerman, and Dworkin), arguing that despite the striking differences in their views, their work shares common flaws. Professor Farber also attended the Foundation Press board meeting, a con-

ference on voluntary environmental agreements at the Wharton School, gave a workshop at Cornell, and attended the American Association of Law Schools hiring meeting in Washington.

BARRY C. FELD spoke at the Hamline–William Mitchell–University of Minnesota law school consortium session at Hamline Law School on October 13, 1999, about his recently published book, *Bad Kids: Race and the Transformation of the Juvenile Court*. At the annual meeting of the American Society of Criminology, Toronto, CA, November 18–19, 1999, he participated in an author-meets-critic session on *Bad Kids* and presented a paper at another session, "Legislative Exclusion of Offenses from Juvenile Court Jurisdiction: A History and Critique." On December 10, 1999, he spoke to the University of Minnesota Lex Alumnae Association luncheon on the topic of "The Juvenile Court Confronts the New Millennium." On January 28, 2000, he spoke at the Symposium on Juvenile Justice at the University of Michigan Law School on "Trends in Juvenile Crime." Professor Feld has also published a number of books and articles including, *Cases and Materials on Juvenile Justice Administration*, "A Funny Thing Happened on the Way to the Centenary: Social Structure, Race, and the Transformation of the Juvenile Court," in *Punishment & Society*; "The Transformation of the Juvenile Court Part II: Race, and the 'Crack Down' on Youth Crime," in *Minnesota Law Review*; "Juveniles' Waivers of Legal Rights: Confessions, Miranda, and the Right to Counsel," in *Youth on Trial*; "Legislative Exclusion of Offenses from Juvenile Court Jurisdiction: A History and Critique," in *The Changing Borders of Juvenile Justice: Waiver of Adolescents to the Criminal Court*; "Juveniles in the Adult System," in *MacMillan Encyclopedia of Crime and Justice*; "The Juvenile Court," in *Handbook of Justice Research in the Law*. He has been quoted extensively in local and national media in stories about juvenile and criminal justice.

MARY LOUISE FELLOWS was a panel participant in November 1999 at a conference entitled "Unbending Gender:

Why Family and Work Conflict and What to Do About It," which was sponsored by the Gender, Work, and Family Project of the Washington College of Law at American University. Her remarks will be published in a forthcoming issue of the *American University Law Review*. She also was invited to speak at the Annual Meeting of the Association of American Law Schools about the proposed Uniform Trust Code. She published "A Matter of Prostitution: Becoming Respectable" in the November 1999 issue of the *New York University Law Review*, which she co-authored with Professor Beverly Balos. Also forthcoming is a co-edited anthology, "Is Academic Feminism Dead? Theory in Practice," which will be published by NYU Press later this year. She continues her law reform work as a participant on the drafting committees of the Uniform Parentage Act and the Uniform Trust Code and as the Law School Teachers' Liaison to the Joint Editorial Board of the Uniform Probate and Trust Codes.

RICHARD S. FRASE delivered his reappointment lecture as the Benjamin N. Berger Professor of Criminal Law in September. The lecture was entitled "Sentencing Guidelines in Minnesota and Other Jurisdictions: A Twenty-Year Retrospective." In January, he presented an overview of state sentencing guidelines systems at a conference on state and federal guidelines, held at the Saint Louis University School of Law. In December, the Third Edition of his book, *Minnesota Misdemeanors and Moving Traffic Violations*, co-authored with Martin J. Costello & Stephen M. Simon, was published by Lexis Law Publishers.

PHILIP P. FRICKEY delivered the John Minor Wisdom Lecture at Tulane Law School on February 7, 2000. The lecture, entitled "Wisdom on Weber," will be published in the *Tulane Law Review*. He has also written "The Process of Common Law Adjudication," a chapter for a forthcoming book sponsored by the American Bar Association celebrating the common bond and values of English and American Law. In November 1999, he presented "An Introduction to Federal Indian Law: Jurisdiction, Tribal Sover-

eignty, and Tribal Courts," at the 1999 Council of Chief Judges Annual Seminar in Santa Fe, New Mexico.

DANIEL J. GIFFORD presented a paper at a Symposium on Regulatory Theory and Administrative Law at Florida State University in February. His paper was entitled "Why Does a Conservative Court Rule in Favor of a Liberal Government? The Cohen-Spitzer Analysis and the Constitutional Scheme." He is scheduled to speak on current antitrust developments at a Minnesota Institute of Legal Education program in April. His article with Professor David McGowan ("A Microsoft Dialogue") was recently published in the *Antitrust Bulletin*. He has just finished a manuscript on the sometimes problematic fit between fine art and the copyright law. He is completing a book manuscript on labor policy.

JOAN S. HOWLAND has been appointed Chair of the Association of American Law Schools Committee on Libraries and Technology. She also serves as a member of the AALS Advisory Group on Electronic Publishing in Legal Education. In January, Professor Howland served as a speaker on the American Association of Law Schools Annual Meeting program "Managing Change in Law Libraries." As Treasurer and an Executive Board Member of the American Indian Library Association, Professor Howland served as a delegate to the International Indigenous Librarians Forum hosted by the Maori tribes of New Zealand and held in Auckland. Professor Howland spoke on the topic "Legal, Economic, Social and Technological Challenges Facing American Indian Communities." Professor Howland will be the keynote speaker on a American Library Association 2000 Annual meeting program entitled "Opportunities and Challenges in a Multiethnic Environment." She has recently had a book entitled "Ensuring Diversity: Retention and Promotion Strategies" and co-authored with Florence Simkins Brown, accepted for publication by the American Library Association. Professor Howland will speak at the American Association of Law Libraries 2000 Annual Meeting program "Gateway

to Career Renewal: Paths for the Experienced Librarian." Professor Howland also recently completed an article entitled "Transforming Libraries to Meet the Challenges of the 21st Century."

SAMUEL KRISLOV published an article on "Technology Law and Politics: The Case of Product Standards" in Marcuro and Samuels *The Fundamental Relationships Between Government and Property* (1999). He completed two items for the forthcoming *New Invitational Encyclopedia of the Social Sciences* edited by Neil Smelser, on "Judicial Decision Making" and "Bill of Rights." In April 2000, he will be visiting Pocturer at the University of Sofia in Bulgaria and for the Academic year 2000-01 he will be a Distinguished Fulbright John Marshall Professor in Budepest, Hungary, sharing the chair with his wife, Judith Gillespie of SUNY (Albany).



Maury Landsman

MAURY LANDSMAN is consulting with the Office of Administrative Hearings on judicial ethics and skills. He is also consulting with Minnesota Continuing Legal Education (CLE) on curriculum issues in courses on ethics and elimination of bias in the profession. He has submitted a draft of materials for inclusion in a American Bar Association handbook on ethics for small firms, expected to be published this year. Professor Landsman was a panelist on the topic of "Interviewing... Is There More to Good Interviewing than Just Asking a List of Questions?" for the Midwestern Intergovernmental Audit Forum: Government Auditors Preparing for the Next Millennium in

October. He also gave a presentation to the Minnesota Office of Administrative Hearings on the application of the Code of Judicial Conduct to Administrative Law Judges. In November 1999, Professor Landsman presented the preliminary results of empirical research on "Predicting the Effect of Law School on the Moral Reasoning of Law Students," at the 25th International Conference of the Association for Moral Education. He spoke on the topic "Is Biased Conduct Unethical?" at the Minnesota CLE seminar "Men and Women on Trial: Ethical Issues Facing Minnesota Lawyers." He moderated a program, "Dealing with Disabilities: A Seminar on the Elimination of Bias in the Legal Profession," on March 16th for Minnesota CLE.

BERNARD M. LEVINSON completed an appointment to the Institute for Advanced Study (Princeton, NJ) in 1998 as a Member of the School of Social Science. He moved to the Twin Cities, where he holds the Berman Family Chair of Jewish Studies and Hebrew Bible, and serves as Associate Professor of Classical and Near Eastern Studies. In spring 1999, *Deuteronomy and the Hermeneutics of Legal Innovation* (Oxford University Press, 1997) received the Salo W. Baron Award for Best First Book in Literature and Thought by the American Academy for Jewish Research. The volume was selected for panel review at the annual meeting of the Society of Biblical Literature (Orlando, 1998), and will be reviewed at the Upper Midwest Regional Meeting of the same society (St. Paul, April, 2000). Professor Levinson has begun work on a second book, *Imagining Sinai: Revelation and Textuality in Ancient Israel*, which will critically examine the idea of divine revelation and its significance for legal hermeneutics and interpretation theory. Professor Levinson is also completing "Deuteronomy's Subordination of the King to Law," an article that shows how the authors of Deuteronomy, rejecting the standard Israelite (and ancient Near Eastern) view of monarchy, forge the prototype of a constitutional monarchy. Currently in press is an article that, reflecting on the Passover law of Deuteronomy 16, addresses the signifi-

cance of citation and its relationship to legal authority in the history of religions ("The Hermeneutics of Tradition in Deuteronomy"). The article "Text-criticism, Assyriology, and the History of Interpretation: The Problematics of Deuteronomy 13:7a," argues against the scholarly consensus that favors emending the Masoretic Hebrew text of Deut 13:7. The Septuagint and Dead Sea Scrolls, far from preserving superior readings, distort the law's original significance in favor of later legal norms. In "The Redaction of Revelation: Exod 34:10-26 and the Composition of the Pentateuch," Professor Levinson shows how the late attempt to create a coherent legal system in Exodus 34 was validated by being ascribed to an ancient account of divine revelation. He is also examining the sources for Mishnaic laws which have no biblical parallel in "The Collapsing Wall: A Lost Chapter of Cuneiform Legal History." Despite the hypothesis that the Mishnah's redactors drew on contemporary Roman law in their consideration of liability in cases of a collapsing house or wall, they were actually influenced by pre-biblical cuneiform legal traditions. Professor Levinson is preparing a commentary on Deuteronomy for the *New Oxford Annotated Bible*, and continues to serve on the editorial boards of the *Journal of Biblical Literature* and the *Zeitschrift für Altorientalische und Biblische Rechtsgeschichte*. He joined the Law School in 1999 as an affiliated faculty member.

ROBERT J. LEVY published an article in the *Family Law Quarterly* entitled "Trends in Legislative Regulation of Family Law Doctrine: Millennial Musings," and the initial chapter of a textbook on *Child and Adolescent Forensic Psychiatry*, entitled "Introduction to the Legal System." Professor Levy also conducted a Minnesota Supreme Court program on sentencing for Minnesota trial judges and an Ohio Supreme Court trial judge workshop on mental health issues in custody adjudication. The Ohio Court distributed copies to all attending judges of the judicial desk book on custody issues published by the West Group for which Professor Levy served as General Editor. Excerpts from the desk book are now

being published by the practitioner journal "Fair\$hare," with permission of the publisher. The book was the subject of a meeting of the New York City "Interdisciplinary Council on Custody" at which Professor Levy spoke on issues on Infant Visitation; and the New York Chapter of the American Academy of Matrimonial Lawyers honored the book at a cocktail party. Professor Levy again aided Justice Michael Wolff, a graduate of the Law School and a member of the Missouri Supreme Court, to teach at St. Louis University Law School the sentencing workshop seminar he founded at Minnesota. Professor Levy also gave lectures at three other law schools where it is expected that the workshop will be adopted next year. In addition, he attended Workshop meetings at two other law schools. For Minnesota's Institute on Criminal Justice, Professor Levy is seeking to expand the Workshop concept to law schools in every state. In December, Professor Levy was elected a member of the board of directors of the National Center on Institutions and Alternatives, a non-profit organization devoted to new methods of punishment and treatment for criminal offenders.

JOHN H. MATHESON published an article, "The Doctrine of Piercing the Veil in an Era of Multiple Limited Liability Entities: An Opportunity to Codify the Test For Waiving Owners' Limited Liability Protection," for *Washington Law Review* (with Raymond B. Eby). He also published annual supplements for his *Corporation Law and Practice*, Volumes 18 and 19 of the Minnesota Practice Series, and also for his *Business Law Deskbook*, Volume 20 of the same series as well as an annual supplement to his *Publicly Traded Corporations* treatise. The 1999 edition of *Corporations and Other Business Associations: Statutes, Rules and Forms*, co-authored by Professor Ed Adams, was also published. Professor Matheson wrote an article and participated as a presenter at the *Minnesota Law Review's* Symposium on Multidisciplinary Practice, February 26, 2000, and made the feature presentation, "Reflections on Recent Developments in Minority Shareholder Litigation," at a March 1, 2000 Continuing

Legal Education program on Minority Shareholder Disputes sponsored by the Minnesota Institute of Legal Education.

john a. powell delivered his inaugural address as the Marvin J. Sonosky Professor of Law and Public Policy on October 19, 1999. In his address, he described urban sprawl as the greatest current threat to civil rights. On November 16, Professor powell was honored as a recipient of the 1999 Leadership Award by the International Leadership Institute. The award recognizes individuals who have spent a decade or more working to eliminate social injustice and intolerance during the last century. His article "Race, Poverty and Urban Sprawl: Access to Opportunities through Regional Strategies," was published in the *Forum for Social Economics* by the Association for Social Economics during spring 1999. On November 8, Professor powell was the keynote speaker at an Amherst H. Wilder Foundation sponsored event in St. Paul where he spoke about the importance of moving from dialogue to action. He spoke, on the same day, at the University of Minnesota Hubert H. Humphrey Institute on the topic of managing metropolitan growth and development. Professor powell spoke on the issue of concentrated poverty and the effects on poor and minority children at a convention on children's human rights sponsored by the Children, Youth and Family Consortium and the Human Rights Center, both part of the University of Minnesota. Two commentaries written by Professor powell were printed in the local and national media. One suggested that political fragmentation and sprawl may be the most important impediments to racial justice in the new millennium; it appeared in the September/October issue of the Poverty and Race Research Action Council *Poverty and Race Newsletter*. The second, a response to the announcement of the \$1.8 billion budget surplus in Minnesota, was printed in the *Star Tribune*. In addition, Professor powell defined the benefits of a regional approach to metropolitan governance in an interview published in the 1999 fall issue of *ColorLines Magazine*. During 1999, he served as the chair of the Affordable Housing Task Force for the City of Minneapolis.

SHARON L. REICH gave presentations on "Technology and Client Communications: Ethical Issues," and "Attorneys Fees: Are There Ethical Limitations on Reasonableness?" for the Minnesota Institute on Legal Education. She also served as course chair for the MILE seminar on Ethics Lessons From the Tobacco Litigation.

SUZANNA SHERRY published four law review articles and a casebook supplement in 1999. Two more articles will be published in 2000. She is currently working on a book about constitutional theory (with Professor Daniel Farber), an article on the intellectual property clause of the Constitution (with University of Georgia Law Professor Paul J. Heald), an article on federalism, and a student study aid in federal jurisdiction. In the popular press, she published two Op-Ed essays in the *Washington Post* and appeared on local television and radio programs on Supreme Court decisions. She also presented lectures to federal judges, to federal court law clerks, and to the Federal Bar Association. She has continued as editor of the journal *Constitutional Commentary*.

STEPHEN M. SIMON was a co-author on the third edition of *Minnesota Misdemeanors and Moving Traffic Violations* published in the late fall of 1999. Professor Simon taught a judicial trial skills course for new judges, who come from all over the United States, at the National Judicial college in October and in Iowa in November. The National Judicial college has made the judicial trial skills course, developed here by Professor Simon, a permanent part of the general jurisdiction course offered three times a year for new judges who come to the college from every state in the country. This course is an opportunity for judges throughout the country to become aware of the unique judicial education program that was developed at the University of Minnesota Law School. He was a presenter on the topic of "How to reduce the number of injured alcohol impaired drivers who avoid criminal prosecution" at the annual conference of the National Commission Against Drunk Driving in Washington D.C. in December. This is a very controversial issue as it involves pos-

sible changes in states' physician/ patient medical privilege laws that currently prevent physicians from notifying law enforcement of the presence of an injured drunk driver receiving treatment for injuries sustained in the drunk driving related crash. Professor Simon is a member of the working group made up of emergency room physicians and nurses, researchers, law enforcement officials, and prosecutors created by the National Commission Against Drunk Driving to address this issue. Professor Simon was appointed a member of the joint Minnesota House and Senate DWI simplification commission and was appointed a member of the joint Minnesota House and Senate DWI vehicle forfeiture law clarification commission.

E. THOMAS SULLIVAN completed an article, "Antitrust Regulation of Land Use: Federalism's Triumph Over Competition, The Last Fifty Years" for publication in the *Washington University Journal of Law and Policy*. Presently, he is working on the 2nd Supplement to *Private Antitrust Actions*, an antitrust treatise published in 1996 by Little Brown and Company (with Doug Floyd) and the 2000 Supplement for *Antitrust Law, Policy and Procedure* published by Lexis/Michie (with H. Hovenkamp), the leading antitrust casebook in the country. Dean Sullivan has been appointed a member to the Association of American Law Schools Nominating Committee to recommend the next President and Executive Committee for the AALS. He also has chaired the decanal review committee for the College of Liberal Arts at the University of Minnesota. In January, he was a speaker at the AALS Annual Meeting on the subject of "Institutional Responses to Increased Accountability in Higher Education." In February, he spoke at the ABA Mid-Year Meeting on the topic of "The Impact of the Multidisciplinary Practice Proposal on Legal Education."

DAVID WEISSBRODT participated in a September 1999 conference at the Harvard Law School on the role of the university in human rights; he also gave a presentation to the January 2000 Conference on Electronic Information Systems in International Law, organized by the



David Weissbrodt

American Society of International Law in Washington, D.C. He spoke principally about his experience in helping to establish the University of Minnesota Human Rights Library on the World Wide Web (<http://www.umn.edu/humanrts/>). In November 1999, Professor Weissbrodt was nominated by the White House for a second four-year term as the United States member of the U.N. Sub-Commission on the Promotion and Protection of Human Rights. He has published several articles on such subjects as the 50th anniversary of the Universal Declaration of Human Rights, a drafting history of the Universal Declaration relating to the right to fair trial, current developments at the Sub-Commission on the Promotion and Protection of Human Rights, the role of Minnesotans in protecting human rights, child survival, the rights of non-citizens, the principle of non-refoulement, and the history of Amnesty International's mandate.

DAVID E. WILKINS had two books published in 1999. The first, *The Navajo Political Experience*, was published by Dine College Press. The second study was co-authored with Vine Deloria, Jr. It is titled: *Tribes, Treaties, and Constitutional Tribulations*. Another co-authored study is nearly complete, co-authored with Tsianina Lomawaima and is titled, *Federal Indian Law: Sovereign Contradictions*. Three articles were published in 1999: "Tribal-State Affairs," in the *Encyclopedia of Minorities in American Politics*; "The Indigenous Peoples of the USA: Issues and Challenges of Native Americans," *International Policy Review*; and "Tribal-State Affairs: American States as 'Disclaiming' Sovereigns," *Publius: The Journal of Federalism*. Four arti-

cles are forthcoming for 2000: "A Constitutional Conundrum: The Resilience of Tribal Sovereignty During American Nationalism and Expansion: 1810-1871," *Oklahoma City University Law Review*; "Racial & Ethnic Studies, Political Science, and Mid-Wifery," (with Vine Deloria, Jr.), *Wicazo Sa Review*; "The Reinvigoration of the Doctrine of Implied Repeals: A Requiem for Indigenous Treaty Rights," *American Journal of Legal History*; and "An Inquiry Into Indigenous Political Participation: Implications for Tribal Sovereignty," *Kansas Journal of Law & Public Policy*. Professor Wilkins has continued work on a textbook that will be published by Rowman and Littlefield Publishers dealing with American Indian Politics; and is working with two other editors on a collection of essays in honor of Vine Deloria, Jr. that will be published by the University Press of Kansas. He presented papers at the American Studies Association's Annual Meeting in Montreal, Canada in October, 1999; and at the Third Annual Tribal Law and Governance Conference held at the University of Kansas School of Law in October, 1999. Professor Wilkins was a delegate to a Tri-National Seminar consisting of delegates from India, South Africa, and the United States. This seminar convened in Tarrytown, New York in October and migrated to Albuquerque, New Mexico. He gave keynote speeches at Humboldt State University in Arcata, California in June, 1999; the University of Wisconsin/Superior in April 1999; Northern State University in Aberdeen, South Dakota in April, 1999; Northern Arizona University, April, 1999; at the 19th Annual Peacemaking Workshop in Lincoln, Nebraska in March, 1999; and at the 24th Annual North Carolina Indian Unity Conference, Fayetteville, North Carolina in March 1999. In 1999, he joined the Law School as an affiliated faculty member.

JUDITH T. YOUNGER was the opening speaker at the first "Difficult Discussion" series of the Feminism and Legal Theory Workshop at Cornell University. Her speech was an updated version of one of her earlier articles, "Responsible Parents and Good Children," originally published in the *Journal of Law and Inequality*. Her theme was that the law

bears some of the responsibility for parental failures because it does not clearly articulate society's expectations that parents be responsible and that children be good. Neither does it reward this desirable behavior when it occurs. She criticized the law's present ambivalence on family matters and proposed reforms. This semester Younger, after a semester's leave, is teaching all three of her usual courses: Family Law, Wills and Trusts, and Property. She is working on studies of the trust and the family, the child protection system, and the report of the Supreme Court Parental Cooperation Task Force. She published an article for the *Journal of Law and Inequality* entitled "More Light Thoughts and Night Thoughts on the American Family," and wrote the faculty essay entitled, "The Worst Case Contest," for the 1999 spring issue of the *Law Alumni News*.

MARK G. YUDOF, president of the University of Minnesota, participated in the Association of American Law Schools' Annual Meeting Workshop on Major Issues of the 21st Century in January at the AALS Annual Meeting in Washington, D.C. He spoke on "What Will the '21st Century University' Look Like (and Law Schools as Part of That)?" as part of the plenary session. This session addressed the metatrends, economics, outcomes assessment, and other issues that will affect legal education in the next millennium. His co-panelists were Bill McBride of Holland & Knight in Tampa, Florida, and Elizabeth Watters of Chester, Wilcox & Saxbe in Columbus, Ohio. ■

Faculty Publications: A Summary

Beverly Balos

Articles

A Matter of Prostitution: Becoming Respectable, 74 N.Y.U. L. REV. 1220 (1999)(with Mary Louise Fellows).

This article looks at the law reforms achieved over the past three decades in the areas of domestic abuse, sexual harassment, and rape. The article suggests that these reforms have reinforced old borders between traditional categories of violence and prostitution and constructed new ones by maintaining the distinction between worthy and unworthy women. By presenting an analysis that goes beyond the consent/coercion and public/private axes, the article analyzes the concept of respectability to introduce a framework for rethinking prostitution as a paradigm of degradation and as a practice of inequality. The article goes on to make use of the concept of respectability to critique previous reforms and to propose a civil rights remedy that is not dependent on the consent and coercion dichotomy as a means to undermine the degeneracy/respectability divide.

Stephen F. Befort

Articles

Mental Illness and Long-term Disability Plans Under the Americans with Disabilities Act, 2 U. PA. J. OF LAB. & EMPLOYMENT L. 287 (1999).

Many long-term disability insurance plans provide lesser coverage for disabling conditions that are mental in origin as compared to those that are physical in origin. This pattern of disparate treatment has been the subject of numerous disability discrimination suits and implicates four of the most difficult, currently unresolved issues under the ADA. This article explores the tumultuous legal landscape surrounding these issues and offers a policy-based analytical framework for the future resolution of mental/physical distinctions in employee benefit treatment.

The Sounds of Silence: The Libertarian Ethos of ERISA Preemption, 52 U. FLA. L. REV. 1 (2000) (with Christopher J. Kopka).

The Supreme Court, in four decisions issued since 1995, has signaled a retreat from its traditional expansive approach to ERISA preemption. In doing so, however, the Court has failed to fashion a predictable, replacement test. The Court's apparent discomfort with its prior ERISA preemption jurisprudence coincides with a message from many commentators calling for a more restrictive scope of preemption. These commentators argue that Congress obviously did not intend a broad scope of preemption with respect to welfare benefit plans because ERISA itself contains little substantive regulation of those plans. In this article, we examine numerous indicia of legislative intent and conclude that Congress intentionally created a largely regulation-free zone in order to encourage the development of benefit plans and to preserve the field of employee benefits for future federal action. The article, accordingly, urges the Supreme Court to formulate a new preemption standard so as to reflect ERISA's libertarian ethos.

Dan Burk

Articles

The Trouble With Trespass, 3 J. SMALL & EMERGING BUS. L. __ (forthcoming 2000).

Several courts have now recognized the common law action of trespass to chat-tels as a viable claim to enjoin unwanted e-mail communications on networked computer systems. However, this tangible property approach is a poor fit to the context of cyberspace, and may threaten the integrity of the global Internet system.

Cyberlaw and the Norms of Science, 1999 B.C. INT. PROP. & TECH. F. (forthcoming 2000) <http://infoeagle.bc.edu/bc_org/avp/law/st_org/iptf/commentary/content/burk.html>

Human artifacts, including computer systems, consciously or unconsciously embody the values of their creators. The Internet computer system reflects the normative values of the scientific community that designed and built it; however, these norms conflict with the increasingly commercial usage of the network, requiring legal rules to patch the discrepancies.

Intellectual Property Issues in Electronic Collaboration, in ELECTRONIC COLLABORATION IN SCIENCE: PROGRESS IN NEUROINFORMATICS, VOL. 2 (S. Koslow & M. Huerta eds., forthcoming 2000).

Scientific researchers are increasingly able to use digital communications media to collaborate in "co-laboratories" or other virtual research environments. However, such collaborative efforts pose difficult issues of shared ownership in the data generated, as well as for proprietary rights in the virtual environments themselves. Scientific norms of open data exchange may be curtailed by the statutory and contractual regimes implemented to address such ownership issues.

Muddy Rules for Cyberspace, 21 CARDOZO L. REV. 121 (1999).

Recent analysis of intellectual property in digital environments has advocated the application of strong property rights regimes to the Internet, on the unproven assumption that electronic transactions will display low transaction costs. However, economic analysis indicates that unclear or "muddy" property rules may be appropriate to high-transaction cost environments, and may be more appropriate for ownership of on-line intangibles.

Virtual Exit in the Global Information Economy, 73 CHI.-KENT. L. REV. 143 (1999).

Global computer networks provide new conduits for the exchange of digitized goods, allowing either consumers or producers to "exit" from the regulatory

regime of a particular jurisdiction. Although this characteristic will tend to prevent over-regulation of digital works, it may also tend to fuel an international “race to the bottom” in the market for intellectual property law.

Karen C. Burke

Articles

Reassessing the Administration’s Proposals for Reform of Subchapter K, 84 TAX NOTES — (forthcoming 2000).

The article identifies flaws in the Administration’s proposals but argues that these flaws can be easily remedied. The shortcomings of the Administration’s proposals should not furnish a pretext for blocking needed reform of Subchapter K.

Social Security Reform: Risks, Returns, and Race, 9 CORNELL J. L. & PUB. POL’Y — (forthcoming 2000) (with Brown & McCouch).

This article examines the far-reaching implications of social security reform for the economic well-being of blacks and other minority groups, and argues that while difficult tradeoffs between competing goals and political constituencies are inevitable, no serious proposal can afford to ignore the issue of racial equity in social security reform.

Perspectives on Social Security Reform (book review), 4 FLA. TAX REV. 417 (1999) (with McCouch).

This book review examines two major collections of essays which offer an interdisciplinary perspective on issues at the center of the debate over social security reform, with emphasis on areas of emerging consensus as well as numerous conflicts, tensions, and tradeoffs which will ultimately have to be resolved through the political process.

Jim Chen

Articles

The Death of Contra, 51 STAN. L. REV. — (forthcoming 2000) (with Daniel A. Farber) (writing as “Gil Grantmore”).

Contra is dead. The sixteenth edition of the *Bluebook* has eliminated the strongest negative citation signal of them all. In a society that no longer knows *contra* and fears its power, the positive state can go so far as to execute the accused on mere technicalities. Mock us not with citations, but deliver us from pedants. For in Hell there will be nothing but law, and the *Bluebook* will be meticulously observed.

Mark My Words, 3 GREEN BAG 2D 121, (2000) (with Daniel A. Farber) (writing as “Gil Grantmore”).

The *Harvard Law Review’s* “Developments in the Law” note once epitomized the corporate style in student-written legal scholarship. No longer. As of 1999, Harvard’s “Developments” note has begun to speak in the first-person singular. This essay provides the definitive “I-witness” account.

Globalization and Its Losers, 9 MINN. J. GLOBAL TRADE 157 (2000).

Globalization marks the end of an epoch. Not just an epoch in the colloquial sense, but an epoch in the geological sense. The spectacle of mass extinction gives rhetorical ammunition to those who oppose globalization as a threat to environmental integrity, labor standards, and cultural independence. But not all claims against the global economic order are equally meritorious. Comparative advantage, freedom of movement for labor and capital, and environmentally informed notions of incommensurability counsel enormous reverence for genes, measured respect for memes, and little to no regard for jobs. Now abide labor, culture, and ecology, these three. And the least of these is labor.

Hope a Better Rate for Me, 17 YALE J. ON REG. 195 (2000).

Ratemaking is sexy again. There are those who would stop regulatory reform as an unlawful breach of an enforceable compact between government and utility shareholders. Others mock the very possibility of confiscatory ratemaking. Both sides could use a musical interlude in this debate. This song, based on a Mamas & Papas tune, provides precisely that.

The Magnificent Seven, American Telephony’s Deregulatory Shootout, 50 HASTINGS L.J. — (forthcoming 1999).

The Telecommunications Act of 1996 promised the world. It has delivered considerably less. The Act’s most vociferous critics argue that the new regime has produced nothing but a cascade of megamergers. The critics imply that mergers since 1996 have done little or nothing to reduce prices, spur innovation, or otherwise enhance consumer welfare. Bell operating companies and other incumbent local carriers have used mergers to defend their markets, even at the expense of accelerated access to long-distance markets. By contrast, long-distance carriers are forming alliances with cable television companies to provide one-stop shopping for local carriage, long distance, wireless service, and Internet access. In the meanwhile, FCC merger policy has emerged as an important, ad hoc response to market conditions not anticipated by the architects of the 1996 legislation.

The Sound of Legal Thunder: The Chaotic Consequences of Crushing Constitutional Butterflies, 16 CONST. COMM. 483 (1999).

What if you could change one moment in constitutional history? Would you get what you wished for? This *Constitutional Commentary* symposium offered eighteen legal scholars the chance to speculate how a mere stitch in time might have changed the Nine.

Midnight in the Courtroom of Good and Evil, 16 CONST. COMM. 499 (1999).

Degeneracy, like beauty, is in the eye of its beholder. Both sides of the debate over abortion rights have degraded constitutional discourse in America. But one

side did win; the jihad against *Roe v. Wade* failed. What if the losing side could eliminate not only *Roe*, but also *Eisenstadt v. Baird*, the birth control decision that made *Roe* doctrinally possible? With a strange but not implausible twist in the case law, this change in constitutional history would have eliminated neither birth control nor abortion, but it might well have opened the door to same-sex marriage.

The Second Coming of Smyth v. Ames, 77 TEX. L. REV. 1535 (1999).

Stranded costs are stalking telephony. Incumbent telephone company shareholders fear that the price of mandatory interconnection, collocation, and unbundled access is a fatal dilution of their investment. J. Gregory Sidak and Daniel F. Spulber have ridden to the rescue by comprehensively reimagining the law of public utility regulation as a branch of takings clause and contract clause jurisprudence. This theory of “deregulatory takings” not only lacks any real support in the case law; it also resurrects the ghost of *Smyth v. Ames*, one of the most notorious cases in the annals of regulation. Let the ghost of *Smyth* be consigned again to the grave, for three generations of confiscatory rhetoric are enough.

Laura Cooper

Books

ADR IN THE WORKPLACE (forthcoming West Group 2000) (with Dennis R. Nolan and Richard A. Bales).

For more than fifty years, arbitration has resolved disputes for workers represented by unions. Today, arbitration, mediation and other forms of alternative dispute resolution are largely replacing litigation as the means of resolving all kinds of employment disputes in all kinds of workplaces. The process of dispute resolution fundamentally alters the role of the advocate and even the definition of the employee’s legal rights. This textbook is the successor to Cooper and Nolan, *Labor Arbitration: A Coursebook*. The new book updates its predecessor’s comprehensive

coverage of labor arbitration and adds new material on alternative dispute resolution of statutory and common law employment rights of nonunion employees.

WORKPLACE ADR SIMULATIONS AND TEACHER’S GUIDE (forthcoming West Group 2000) (with Carolyn Chalmers).

Students cannot be prepared to represent clients in alternative dispute resolution processes simply by learning about the law governing ADR. Nor can one assess the comparative merits of arbitration and mediation for the resolution of particular disputes without an understanding of the fundamental ways in which these processes differ from litigation. A course in alternative dispute resolution of employment disputes therefore needs to provide students with experience representing clients in arbitration and mediation. This Teacher’s Guide includes six simulations including mediation of a dispute regarding sexual harassment and sex discrimination in a law firm; mediation and arbitration of a discipline and holiday pay case arising under a collective bargaining agreement; arbitration of work hours dispute in a school district and mediation and arbitration of a dispute arising under the Americans with Disabilities Act. The book includes all of the materials for the simulations and comprehensive instructions for the teacher.

Articles

Researching Labor Arbitration and Alternative Dispute Resolution in Employment, 91 L. LIBR. J. 367 (1999) (with Suzanne Thorpe).

Lawyers are familiar with the ordinary tools for doing research on legal issues governed by precedent to represent clients in litigation. As more employment disputes are resolved through alternative dispute resolution methods, lawyers must look to new sources of information. This research guide outlines print and electronic resources for doing research in ADR processes in the union and non-union workplace.

Barry C. Feld

Books

CASES AND MATERIALS ON JUVENILE JUSTICE ADMINISTRATION (forthcoming West Group 2000).

This the first casebook to be published in the field of juvenile justice in more than a decade. The casebook compares the juvenile justice system with adult criminal system, and compares different states’ laws and policies. It organizes materials around three themes: (1) the legal and administrative consequences of regulating children rather than adults; (2) the procedural and substantive implications of a justice system that nominally emphasizes treatment rather than punishment; and (3) the tensions between discretion and rules that occur in a system that treats children rather than punishes adult. The materials examine the “law in action” as well as the “law on the books,” explore recent “get tough” policies that have compromised the traditional rehabilitative model of juvenile justice, incorporate empirical evaluations, criminological studies, and developmental psychological research, and explore controversial issues such as gender and racial disparities in juvenile justice administration.

Chapters

Juveniles’ Waivers of Legal Rights: Confessions, Miranda, and the Right to Counsel, in YOUTH ON TRIAL (Tom Grisso and Robert Schwartz, eds., University of Chicago Press 2000).

This chapter in a book commissioned by The John D. and Catherine T. MacArthur Foundation identifies developmental psychological issues that affect young people’s ability to exercise legal rights and to participate in the justice process.

Legislative Exclusion of Offenses from Juvenile Court Jurisdiction: A History and Critique, in THE CHANGING BORDERS OF JUVENILE JUSTICE: WAIVER OF ADOLESCENTS TO THE CRIMINAL COURT (Jeffrey Fagan and Franklin E. Zimring, eds., University of Chicago Press 2000).

This chapter in a book commissioned by The John D. and Catherine T. MacArthur Foundation analyzes the jurisprudential shift from rehabilitation to retribution, from offender to offense, and the legislative exclusion of youths charged with certain crimes from juvenile court jurisdiction.

Juveniles in the Adult System, in MACMILLAN ENCYCLOPEDIA OF CRIME AND JUSTICE. (forthcoming MacMillan 2000).

A thirty-page entry on waiver of juveniles to the criminal justice system and sentencing of juveniles as adults.

Philip P. Frickey

Articles

Wisdom on Weber, __ TULANE LAW REV. __ (forthcoming 2000).

This essay examines the “arguable violation” theory, developed by Judge John Minor Wisdom in *United Steelworkers v. Weber*, justifying racial affirmative action in employment in some circumstances, as well as examining the Weber case and the persons involved in it in detail.

The Process of Common Law Adjudication, in COMMON LAW/COMMON VALUES/COMMON RIGHTS, (forthcoming 2000).

This essay provides a contemporary overview of the common-law process in the United States.

Revisiting the Revival of Theory in Statutory Interpretation: A Lecture in Honor of Irving Younger, 84 MINN. L. REV. 199 (1999).

This essay returns to the revival of theory in statutory interpretation and examines the past seven years of developments.

A Common Law for Our Age of Colonialism: The Judicial Divestiture of Indian Tribal Authority over Nonmembers, 109 YALE L.J. 1 (1999).

This article contends that the Supreme Court has largely abandoned its canons of interpretation in federal Indian law,

preferring a case-by-case, common-law-like approach that weighs non-Indian interests against perceived tribal interests.

An Overview of the Legal Status of Indigenous Tribes in the United States, 59 HEIDELBERG J. INT. LAW 383 (1999).

This essay is designed to introduce federal Indian law to non-Americans.

Daniel Gifford

Articles

A Microsoft Dialogue, 44 ANTITRUST BULL. 619 (1999) (with David McGowan).

The Microsoft antitrust trial has raised important issues about how the antitrust laws should respond to aggressive behavior by dominant firms in high-technology industries. How should the antitrust laws be construed to ensure continuing innovation in such industries? Professors Gifford and McGowan discuss these issues in the light of the evidence presented in the Microsoft antitrust trial.

Bernard M. Levinson

Books

DEUTERONOMY AND THE HERMENEUTICS OF LEGAL INNOVATION (Oxford University Press 1997).

Engaging traditional biblical studies, legal history, and literary theory, this book shows how the legislation of Deuteronomy reflects the struggle of its authors to renew late seventh-century Judean society. Seeking to defend their revolutionary vision during the neo-Assyrian crisis, the reformers turned to earlier laws, even when they disagreed with them, and revised them in such a way as to lend authority to their new codification of law. Passages that other scholars have long viewed as redundant, contradictory, or displaced actually reflect the attempt by Deuteronomy’s authors to sanction their new religious aims before the legacy of the past.

GENDER AND LAW IN THE HEBREW BIBLE AND THE ANCIENT NEAR EAST (co-ed. with Victor H. Matthews & Tikva Frymer-Kensky) (1998).

The articles collected in this volume demonstrate the essential role of Israelite and Near Eastern law in the historical analysis of gender. The volume contributes to feminist scholarship with its focus on the place of women in biblical and ancient Near Eastern law, while also reconsidering classical legal texts from the vantage point of feminist theory and social history.

Articles

The Hermeneutics of Tradition in Deuteronomy, in JOURNAL OF BIBLICAL LITERATURE 119 (2000) 269–86 (forthcoming).

This article argues that citation of a prior legal code does not necessarily imply deference to that prior tradition. Textual reuse may sponsor critical engagement or disagreement under the cover of deference. Specifically, the authors of Deuteronomy reworked earlier Israelite legal literature in order to authorize their reform program. The claim by new and innovative law to defer to the source text it actually seeks to displace constitutes an important model for the history of religions, which is reflected not only in Deuteronomy but in the New Testament and rabbinic literature.

The Covenant at Mount Sinai: The Argument of Revelation, in THE JEWISH POLITICAL TRADITION, VOL. 1: AUTHORITY (co-ed. with Michael Walzer, et al. (forthcoming 2000).

The narrative of Yahweh’s revelation to the Israelites at Mt. Sinai makes an argument for a new conception of authority and community on two different fronts: both the explicit statements of value found in the legal sections of the pericope and the implicit statements made by the redaction of those legal materials into the larger narrative of revelation. This article seeks to integrate law and narrative, synchronic and diachronic methodologies, in order to articulate the concep-

tion of a moral community that is implicit in the Pentateuch's redactional attribution of law to divine revelation.

John H. Matheson

Articles

The Doctrine of Piercing the Veil in an Era of Multiple Limited Liability Entities: An Opportunity to Codify the Test For Waiving Owners' Limited Liability Protection, 75 WASHINGTON L. REV. 147 (2000) (with Raymond B. Eby).

This article reviews the recent development of new forms of limited liability business entities, such as the limited liability company and limited liability partnership. The article then reviews and critiques the historical tests used by the courts to "pierce the veil" in the corporate context and suggests that, with the advent of new forms of limited liability entities, it is an appropriate time to refashion and standardize the piercing test. The article then proposes a model statute for possible adoption by states to clarify this area of the law.

john a. powell

Articles

Forum for Social Economics, ASSOCIATION FOR SOCIAL ECONOMICS, Vol. 28, No. 2, Spring 1999.

This article demonstrates the need for social justice and urban civil rights advocates to focus on urban sprawl, as well as concentrated poverty. The article posits that these are as much civil rights issues as environmental or land use issues and that sprawl has frustrated civil rights efforts. There is strong evidence that racialized concentrated poverty is both a cause and product of sprawl and cannot be effectively addressed without addressing sprawl. The article explores the effects of gentrification and how in-fill revitalization strategies operate differently in rich, middle-class and poor cities.

Suzanna Sherry

Articles

All or Nothing: Explaining the Size of Supreme Court Majorities, __ N. CAR. L. REV. __ (forthcoming 2000) (with Paul H. Edelman).

This article looks at the size of Supreme Court majorities. The two most common voting patterns on the Supreme Court are 9:0 and 5:4, and one of the least common is 8:1. No existing theory of voting explains that pattern, and Professors Sherry and Edelman put forth a hypothesis based on a Markov process.

States Are People Too, 75 NOTRE DAME L. REV. __ (forthcoming 2000).

This article focuses on the three Eleventh Amendment cases decided at the end of the 1998–1999 Supreme Court Term. It concludes that the language and reasoning of the cases suggest that the Supreme Court views the states as equivalent to individuals.

Beyond All Criticism?, 83 MINN. L. REV. 1735 (1999) (with Daniel A. Farber).

In this article, Professors Sherry and Farber respond to criticism of their 1997 book, *Beyond All Reason*. Published in response to a symposium in the Minnesota Law Review—but discussing other scholarship as well—this article concludes that much of the work criticizing the book simply confirms that radical multiculturalists are not interested in scholarship or academic freedom.

Plus ça Change...or: If Hard Cases Make Bad Law, What Do Bad Cases Make? 16 CONST. COMM. 575 (1999).

This article, published in a symposium on the consequences of altering past constitutional events, examines what might have happened had a 1908 Eleventh Amendment case been decided differently. As the title suggests, Professor Sherry concludes that not much would have changed.

Judicial Federalism in the Trenches: The Rooker-Feldman Doctrine in Action, 74 NOTRE DAME L. REV. 1085 (1999).

In this article, Professor Sherry canvasses lower court use of a doctrine that prevents litigants from relitigating in federal court issues already decided by state courts. The doctrine is widely used but frequently criticized, and this article both defends it and describes the circumstances in which it is useful. Professor Sherry also discusses the best resolution of various disputes about the specific contours of the doctrine.

Independent Judges and Independent Justice, 61 L. & CONTEMP. PROBS. 15 (1999).

This article, originally presented to an ABA conference on Judicial Accountability, recounts the history of American judicial independence. It examines a number of instances in which courageous state or federal judges defied contemporary legislative and popular opinion to reach results which we now agree were correct.

Some Targets Were Larger Than Others, WASHINGTON POST, Outlook, July 4, 1999, op-ed.

This essay looks at the Supreme Court's 1998–1999 Term.

I Hate What They Say, But I Won't Stop Them, WASHINGTON POST, Outlook, February 14, 1999, op-ed.

This essay discusses the Oregon case that enjoined a violent anti-abortion website, examining the implications for freedom of speech.

David Weissbrodt

Articles

Defending Rights Around the Globe: Minnesota's Contributions to International Human Rights, FOR THE RECORD, 150 YEARS OF LAW & LAWYERS IN MINNESOTA 224 (Wood Foster & Marvin Anderson eds., 1999) (with Donald Fraser and Barbara Frey).

Minnesota is recognized around the world as one of the most important centers of international human rights research and advocacy. Minnesotans have provided important leadership in the international movement to define and protect human rights. Minnesota's citizens, lawyers, health professionals, teachers, and politicians have played key roles in defending those rights around the globe.

Concluding Remarks on the Fiftieth Anniversary of the Universal Declaration of Human Rights in Peter Baehr, INNOVATION AND INSPIRATION: FIFTY YEARS OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS 211 (Cees Flinterman & Mignon Senders eds., 1999).

The Universal Declaration of Human Rights has become part of a worldwide culture of human rights which is more pervasive than any religion, political philosophy, or even economic system. But we have quite a long way to go in bringing reality to the rights which are set forth in the Universal Declaration. While the Declaration represents the drafting of only the 51 governments which were members of the United Nations in 1948, the human rights treaties which were inspired by the Declaration have achieved extraordinarily broad ratification and thus demonstrate the universality of the declaration and culture of rights which it heralded.

Highlights of the Fiftieth Session of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, 17 J. LAW & INEQ. 445 (1999)

The future role of the Sub-Commission on the Promotion and Protection of Human Rights is in serious question. The Bureau of its parent body—the Commission on Human Rights—has proposed that the Sub-Commission should be deprived of the authority to adopt country-specific resolutions. The Sub-Commission would be authorized to continue holding its open debate on country situations, but instead of resolutions expressing concerns about specific countries, it would only be requested to

summarize the debate in its report. Accordingly, the Sub-Commission would apparently not be able to apply human rights issues to concrete situations and would thus be deprived of one of its most important functions. At the same time, however, the Bureau would reduce the length of the Sub-Commission sessions and thus diminish its capacity to have any substantive debates, summarize those controversial discussions, or do other useful work. Such limits will likely discourage NGOs from participating in Sub-Commission sessions and thus make the Sub-Commission much less visible and useful. One of the principal strengths of the Sub-Commission has been its accessibility to NGOs and their initiatives. It is likely that NGOs would lose interest in the Sub-Commission as restructured by the proposals of the Commission's Bureau.

Working Paper on the Rights of Non-citizens, E/CN.4/Sub.2/1999/7 (1999).

Any approach to discrimination against non-citizens should take into account several critical factors including different categories of non-citizens (e.g., permanent residents, temporary residents, undocumented aliens, etc.) regarding different categories of rights (e.g., political rights, civil rights, right to an education, social security, other economic rights, etc.) in countries of different levels of development with different rationales to be offered for such distinctions (e.g., issues of national reciprocity).

The Principle of Non-Refoulement, 5 BUFFALO HUM. RTS L. REV. 1 (1999) (with Isabel Hortreiter).

The Treaty Against Torture forbids governments from returning persons who are at risk of being tortured if they are returned to their country of origin. The article compares the different ways by which the Torture Convention, the Covenant on Civil and Political Rights, the European Convention, and other human rights treaties protect persons from being forcibly returned to their countries of origin where they are at risk of being tortured.

Travaux Préparatoires of the Fair Trial Provisions—Articles 8 to 11—of the Universal Declaration of Human Rights, 21 HUM. RTS. Q. 1061 (1999) (with Mattias Hallendorff).

On 10 December 1948 the United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR). This article reviews the origins of the Universal Declaration and then focuses principally upon the drafting and meaning of the fair trial provisions of the declaration.

AI Mandate History as a Background to the Way Ahead, AI Doc. SCM 10/99 (1999).

This paper traces the gradual, but irregular growth of Amnesty International's mandate during its first 30 years and then the more substantial changes in the mandate during the 1990s. For its entire history AI has sought to define its terms of reference, but in view of the changes in the mandate since 1991, AI must consider once again the scope of its work and, indeed, reconsider why there is an AI mandate. ■

Mark Your Calendar

University of Minnesota Homecoming

Saturday, October 28, 2000

Annual Continuing Legal Education Seminar
and Pre-game Reception

Invitations will be mailed in September

New Affiliated Faculty Join Law School

Bernard M. Levinson Classical and Near Eastern Studies

Bernard M. Levinson became an Associate Professor of Classical and Near Eastern Studies at the University of Minnesota in 1997. He holds the Berman Family Chair in Jewish Studies and Hebrew Bible.



Bernard M. Levinson

Professor Levinson received his B.A. degree in English and Intellectual History, with First Class Honors, in 1974 from York University in Toronto. He earned a M.A. degree in Religious Studies from McMaster University in Hamilton, Ontario in 1978 and a Ph.D. in Near Eastern and Judaic Studies from Brandeis University in 1991. Levinson was a Visiting Researcher in Bible and Semitic Languages from 1979 to 1980 at Hebrew University in Jerusalem.

Levinson was a Teaching Fellow in Near Eastern and Judaic Studies at Brandeis University (1986–87) and a Stroum Fellow in Advanced Jewish Studies at University of Washington (1987–88). He was an Instructor in Religious Studies at Penn State University from 1988 to 1990.

Levinson served as an Adjunct Professor of Religious Studies and of Jewish Studies and an Assistant Professor of Near Eastern Languages and Cultures from 1990 to 1997, when he was promoted to Associate Professor.

In spring 1999, his book, *Deuteronomy and the Hermeneutics of Legal Innovation* (1997),

received the Salo W. Baron Award for Best First Book in Literature and Thought from the American Academy for Jewish Research.

Steven S. Smith Political Science

Steven S. Smith is a Professor in the Department of Political Science at the University of Minnesota and a Distinguished McKnight University Professor.



Steven S. Smith

Professor Smith received his B.A. degree from St. Cloud State University in 1975 and his Ph.D. in 1980 from the University of Minnesota. He was selected as a Distinguished McKnight University Professor in 1998 and in 1996 was awarded the Morse-Alumni Distinguished Teaching Award, for contributions to undergraduate education.

Smith was an Instructor in the Department of Political Science at George Washington University from 1979 to 1980 and became an Assistant Professor in 1980. He served as an Assistant Professor at Northwestern University (1984–85) and was promoted to Associate Professor in 1985. Smith was a Senior Fellow in the Government Studies Program at Brookings Institution (1985–87), became an Associate Staff member in 1987 and presently holds that position. He began teaching at the University of Minnesota as an Associate Professor in 1987 and was promoted to full Professor in 1990.

Professor Smith has authored several books and articles. He is currently preparing papers and articles on the role of public opinion in congressional policy making and on the origins of the incumbency advantage in the modern House of Representatives. He is also developing a virtual laboratory for teaching undergraduate research methods in the social sciences, with funding from the National Science Foundation. ■

Constitutional Commentary Ranked Third

In a 1999 survey of the relative prestige of specialized law reviews, based on the prominence of the authors who have published articles in those journals, the University of Minnesota Law School journal *Constitutional Commentary* was ranked 3rd in the country out of the top 384 journals studied. Southern Methodist University Professor Gregory Crespi coded over 10,000 authors in more than 1,000 volumes of nearly 300 specialized legal periodicals published by or in conjunction with law schools. The survey was published in the summer 1999 issue of the *Florida State University Law Review*.

Professor Carol Chomsky Co-President, SALT

This year, University of Minnesota law Professor Carol Chomsky is serving as co-president, along with Professor Margaret Montoya from the University of New Mexico Law School, for the Society of American Law Teachers. For Chomsky, a person dedicated to issues concerning diversity and affirmative action, the position seems a natural one.

According to Chomsky, the organization, which came into existence in 1975, is “a place that has recognized diversity, embraced it, in the way that the rest of the Academy did not, and as some may say, still do not. In name it is a society of American law teachers embracing everyone, but in fact it has been a group of progressive law teachers who have focused their work on issues related to diversity in the Academy.”



Carol Chomsky

Chomsky said that SALT has had a very progressive agenda from the beginning, and cited examples of issues the organization focuses on, ranging from challenging the use of the LSAT for law school admissions to the semantics used in teaching evaluations, to challenging the use of the bar exam as an entry point into the law profession. She said “The law school environment has not been a welcoming learning environment for anybody, but it works better for some students than it does for others. Admissions criteria have been geared toward success in this odd environment that expects certain kinds of behavior and certain kinds of learning to go on...the LSAT and college grades together have some predictive value, but some recent studies have suggested that it’s actually counter-predictive in regards to some minority candidates. Because of the way we use the LSAT without looking at the broader range, we invite people to say ‘you don’t deserve to be here’, we’ve narrowed our concept

down of what it means to be good, and we all need to think more broadly, to understand that we shouldn’t judge people by that particular measure, because it’s a measure of one slim aspect of ability.”

SALT holds annual teachers’ conferences in which teachers focus on such topics as how to bring issues of diversity into the classroom subject by subject. “One of the focuses wasn’t just talking about diversity in the classroom, but bringing the world into the classroom and the students out into the world,” Chomsky said. “We talked about projects that would bring us together with the community in which we loved and worked.” She added that the conferences are “well-attended by people hungry for help on those issues and wishing to talk together on them.”

SALT also gives annual teacher and human rights awards. This past year’s teachers award was given to Marjorie Schulz of Boalt Hall Law School at Berkeley, and the human rights award was given to Barney Frank for his work in fighting against discriminatory recruitment on campuses.

Chomsky remembered the first year she attended a SALT dinner, when “I walked into the room, and it was so different, not like any room I’ve been in, so much more inclusive, so for someone who is a bit of an outsider because of race or gender in the Academy, it is such a supportive environment, even though you see the people infrequently. There are differences, clashes, but it is a vibrant and different community. There’s a comfort to being in a room where you can be with people who look like you, it’s a place where you can let down a little bit, where people are looking at you for who you are, not for the status quo.”

Margaret Axtmann, President American Association of Law Librarians

In a new chapter of a twenty-five year career as a law librarian, Margaret Axtmann is serving as president for the American Association of Law Librarians (AALL), a three-year, elected position that



Margi Axtmann

includes one year as vice president/president elect, one year as president, and a final year as past president.

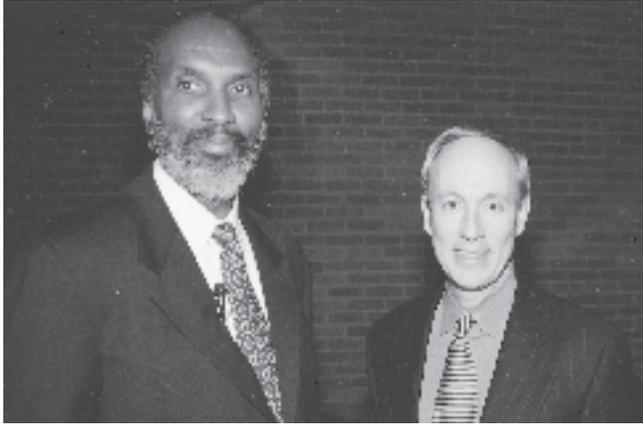
The Association was founded in 1906, to “promote and enhance the value of law libraries to the legal and public communities, to foster the profession of law librarianship, and to provide leadership in the field of legal information and information policy,” Axtmann said.

As president of the AALL, Axtmann is responsible for the overall leadership of the Association, development and direction of policy, and strategic and financial plans, among other things. She presides over Executive Board meetings and visits several AALL chapters each year.

As a librarian at the University of Minnesota, Axtmann’s work encompasses collection development, technical services, and library automation. “When I began my career, collections were print-based, card catalogues were the method of access, and electric typewriters were the latest technology,” Axtmann quipped.

Axtmann worked at the Cornell Law Library, the National Center for State Courts and at Hindry and Meyer before starting her position at the University of Minnesota Law Library in 1990. She said that in the past decade, two of the biggest changes in her work have been “the rapid pace of technological development and the consolidation of the legal publishing industry. Reduced or flat budgets will continue to challenge our ability to keep up with new technology, yet we will want to take advantage of all that technology provides for improved resources and services. Legal publishers, while shrinking in numbers, provide a dazzling and confusing array of products to enhance legal research. We are only in the middle of this cycle, and we will continue to see the effects of these changes well into the next millennium.” ■

Faculty Lectures



Pictured are Professor Powell and Dean Sullivan.

Professor John A. Powell

Marvin J. Sonosky Professor of Law and Public Policy

Professor Powell gave his inaugural lecture entitled “Separate and Unequal: How Sprawl Undermines Civil Rights” on October 19, 1999. He is nationally recognized in the areas of civil rights and civil liberties. He teaches race and poverty, civil rights law property law and jurisprudence. He also is the founder and Executive Director of the Institute on Race and Poverty at the Law School. Professor Powell was the Julius E. Davis Professor of Law for 1997–98.



Pictured with Professor Burke and Dean Sullivan are members of the Dorsey & Whitney law firm, (from left to right) Steve Gottschalk, John Haine ('83), Bruce Shnyder, Will Goetz ('87), and Ray Reister.

Professor Karen C. Burke

The Dorsey & Whitney Professorship in Law

Professor Burke delivered her inaugural lecture entitled “Retirement Security: Reform, Ideology and Administration,” on March 15, 2000. She is a nationally recognized tax scholar who teaches individual income taxation, corporate taxation, pension law, partnership taxation and subchapter S taxation. Professor Burke was appointed the Julius E. Davis Professor of Law for 1996–97.



Pictured are Professor Paulsen and Dean Sullivan.

Professor Michael Stokes Paulsen

Briggs and Morgan Professor of Law

On January 12, 2000, he delivered his appointment lecture entitled “Is Public Education Unconstitutional?” Professor Paulsen teaches and writes in the areas of civil procedure, criminal procedure, legal ethics, constitutional law and law and religion. He currently teaches courses on civil procedure, professional responsibility, separation of powers, law and religion and Lincoln and the Constitution.



Pictured are Michael M. Sullivan ('90), Gray Plant Mooty law firm, Professor Bryden and Dean Sullivan.

Professor David P. Bryden

Gray, Plant, Mooty, Mooty & Bennett Professor in Law

“Explaining Rape,” was the title of Professor Bryden’s reappointment lecture which he presented on February 8, 2000. He is nationally recognized for his scholarship in the areas of criminal law and constitutional law. In addition to teaching courses in these areas, he has taught case analysis, contracts, torts, expository writing and seminars on abortion and animal rights. Professor Bryden initially was named the Gray, Plant, Mooty, Mooty & Bennett Professor of Law in 1993. ■

Faculty Scholarly Presentations

The Law School hosts weekly luncheon presentations by members of the faculty, faculty from other departments of the University and visitors from other law schools. Listed below are the 1999–2000 presentations:

Professor Bertil Wiman

Visiting Professor, University of Uppsala Law School, Sweden

Professors Fred Morrison and David Weissbrodt

University of Minnesota Law School, International Law Roundtable on Kosovo, Pinochet, and the International Criminal Tribunal

Professor Marc Galanter

University of Wisconsin Law School, “Old and in the Way: The Coming Demographic Transformation of the Legal Profession and Its Implication for the Provision of Legal Services”

Professor J. M. Balkin

Yale University Law School, “Interpreting Law and Music: Performance Notes on ‘The Banjo Serenader’ and ‘The Lying Crowd off Jews’”

Mr. Marvin Krislow

General Counsel, University of Michigan, “The Compelling Need for Diversity in Higher Education”

Professor Gordon Silverstein

Political Science, University of Minnesota, “Judicial Power, Economic Integration and Democratic Legitimacy: A Madisonian Solution to a European Dilemma”

Professor Stephen Carter

Yale University Law School, “Liberal Hegemony and Religious Resistance”

Professor Robert Kudrle

Hubert H. Humphrey Institute, University of Minnesota, “Does Globalization Sap the Fiscal Power of the State?”

Professor Dan L. Burk

Visiting Professor, University of Minnesota Law School, “Patenting Speech”

Professor Ford Runge

Applied Economics, University of Minnesota, “Labeling Trade and Genetically Modified Organisms (GMOs): A Proposed Solution”

Professor Chris Schroeder

Duke University Law School, “Reconsidering Public Choice”

Professor Elizabeth Rynning

Visiting Professor, University of Uppsala Law School, Sweden, “Human Rights in Bio-medicine: Recent Developments in European Health Law”

Professor L. A. Scot Powe, Jr.

University of Texas School of Law at Austin, “The Warren Court and American Politics”

Professor Linda Rusch

Hamline University School of Law, “The Role of Academics in Law Revision”

Mr. Steven Smith

Attorney, Sidley & Austin, Washington, D. C.

Professor Thomas Merrill

Northwestern University Law School, “The Landscape of Constitutional Property”

Mr. Jon Lauck (3L)

Editor in Chief, *Minnesota Journal of Global Trade*, University of Minnesota Law School, “The Dimensions and Consequences of Changes in American Farming”

Professor Joan Williams

American University Law School, “Unbending Gender Does Work-Family Conflict Reflect Discrimination Against Women”

Professor David McGowan

University of Minnesota Law School, “Is Character Relevant? The Use of Persons in Law and History; Two Examples Involving Alexander Hamilton”

Ms. Leena Kurki (*97 LL.M.)

Research Associate, University of Minnesota Law School, “Restorative and Community Justice in the United States”

Professor Kyron J. Huigens

Benjamin N. Cardozo School of Law, “Rethinking The Penalty Phase”

Professor Marjorie E. Kornhauser

Tulane Law School, “For God and Country: Taxing Conscience”

Professor Miranda McGowan

University of Minnesota Law School, “Reconsidering the Americans with Disabilities Act”

Professor Kimberly Smith

Political Science, Carleton College, “Mere Taste: Democracy and The Politics of Beauty”

Professor Eugene Garver

Regents Professor of Philosophy, St. John's University, “Why Should Anybody Listen? The Rhetoric of Religious Arguments in Democratic Liberation”

Professor Dan Gifford

University of Minnesota Law School, “Innovation and Creativity in the Fine Arts: The Relevance and Irrelevance of Copyright”

Presentations scheduled in April

Professor Jim Chen

University of Minnesota Law School, “Standing in the Shadows of Giants: The Role of Intergenerational Equity in Telecommunications Reform”

Adam Samaha, Visiting Scholar

University of Minnesota Law School

Professor Betsy Baker Riben

Max-Planck-Institut, Heidelberg, Germany

Professor Robert Hudec

University of Minnesota Law School

Professor Eugene Borgida

Psychology, University of Minnesota

Professor April Schwartz

University of Minnesota Law School Library Orientation to the Interactive Cable Facility

Patents on Genetic Information:

A Threat to Research and Medical Progress or a Needed Incentive?

By Susan M. Wolf, Professor of Law and Medicine at the University of Minnesota Law School and Center for Bioethics, and Director of the University's new Joint Degree Program in Law, Health & the Life Sciences

Industry and researchers are increasingly securing patents on pieces of the genetic code of human beings and other species. But these patents are extremely controversial. Do they create obstacles to public access, university research, and the development of medical therapeutics, or do they provide necessary incentives for research and development? Debate is ferocious over what patents should issue and how much genetic information should remain in the public domain.

Robert Waterston, McDonnell Professor of Genetics at Washington University in St. Louis, now leading a massive effort to help sequence the genetic code of humans and sequence several other species, advocated "Public Access to Genetic Information." He offered novel solutions to the problems of private patenting, such as individual companies or industrial consortiums sponsoring projects to put DNA sequence information in the public domain.

patenting plant genes and varieties or hybrids will lead to improved quantity and quality of food.

Two panelists then examined how private patents motivate companies to develop and refine genomic databases, but sometimes hinder researchers' access to those databases. Pete Magee, Professor in the Department of Genetics, Cell Biology & Development and expert on yeast genomics, grappled with this problem in the context of microbial genomics. Harry Orr, professor in the same department and Director of the Institute of Human Genetics, dealt with it in the context of human genomics. Dan Burk, Professor of Law, then analyzed a further potential barrier to public access, the possibility of copyrighting databases.

Jeffrey Kahn, Director of the University's Center for Bioethics, reflected on the ethical implications of genetic patents, including the potential commodification of human life.

Susan Wolf, Professor of Law and Medicine at the University of Minnesota Law School and Center for Bioethics, and Director of the University's new Joint Degree Program moderated the symposium. Provost Robert Bruininks spoke at the luncheon following.

The University of Minnesota's Joint Degree Program is the first in the country to train students to tackle the next generation of legal and policy problems raised by science, health care, and the environment. Students combine a law degree with a doctorate or master's in one of seven fields: molecular biology, pharmacology, health services research, environmental health, ecology, conservation biology, and science policy. The Program is producing students uniquely equipped to handle the difficult interdisciplinary problems posed by science, health care, and environmental concerns in the 21st century. ■



Professor Wolf chairs panel on "Patenting Life."

On March 3, 2000, leading minds debated these questions at the University of Minnesota in a symposium on "Patenting Life: Genes, Private Property & Public Policy." The symposium was the inaugural event of the Joint Degree Program in Law, Health and the Life Sciences.

Mark Yudof, President of the University of Minnesota, a public university increasingly involved in genomics research, offered opening remarks. Rebecca Eisenberg, Luciano Professor of Law at the University of Michigan and expert on intellectual property in genetics tackled "Nagging Intuitions on Patenting DNA." Eisenberg illuminated dangers in the federal willingness to grant patents on stretches of genetic code—pieces of genes—before the function of those pieces is known.

raised by university/industry collaboration to create technology incubators in the life sciences, in order to translate academic research into technological innovation.

Two panelists explained intellectual property issues in plant genetics and the related controversy over genetically modified organisms (GMOs) such as crops. It is the ability to patent plant genes that motivates companies to create GMOs and to develop controversial technologies such as the "terminator gene," rendering crops sterile. Charles Muscoplat, Dean of the College of Agriculture, Food & Environmental Sciences, addressed the relationship between biotechnology and agriculture, including the question of GMOs. Roger Kleese, retired Vice President of Research and Development at Optimum Quality Grains, argued that

Those grappling with these problems in academia and industry commented as panelists. Christine Maziar, Vice President of Research at the University of Minnesota, laid out the challenges encountered in university/industry collaboration. Robert Elde, Dean of the College of Biological Sciences, focused on the issues



Pictured are Curtis Kellar ('40), I. Michael Heyman and Dean Sullivan.

The Horatio Ellsworth Kellar Distinguished Visitors Program

I. Michael Heyman delivered the second annual lecture of the Horatio Ellsworth Kellar Distinguished Visitors Program, entitled "Culture and Process: A Lawyer's View of the Smithsonian," on September 29, 1999. Mr. Heyman is the Secretary of the Smithsonian Institution, where he heads sixteen museums and galleries and the National Zoological Park, as well as scientific and cultural research facilities in ten states and the Republic of Panama.

Mr. Heyman received his B.A. degree in government from Dartmouth College in 1951 and his J.D. degree from Yale Law School in 1956, where he was editor of the *Yale Law Journal*. He was an associate with the firm of Carter, Ledyard and Milburn in New York City (1956-1957) and was chief law clerk to the Honorable Earl Warren, Chief Justice of the Supreme Court of the United States (1958-1959). Mr. Heyman began his career at the University of California at Berkeley in 1959 as an acting professor of law and became a full professor in 1961. His distinguished teaching career has included service as a visiting professor of law at Yale University (1963-1964) and at Stanford University (1971-1972). In 1980, he was appointed Chancellor at Berkeley and served in that position until 1990. Mr.

Heyman served as Counselor to Secretary of the Interior Bruce Babbitt, as well as Deputy Assistant Secretary for Policy at the Department of the Interior (1993-1994). He became the tenth Secretary of the Smithsonian Institution in 1994.

The Horatio Ellsworth Kellar Distinguished Visitors Program was established in 1996 by Curtis B. Kellar ('40) in memory of his father Horatio Ellsworth Kellar. In keeping with his father's many interests, Curtis Kellar's desire was to support a lecture series at the Law School which would be interdisciplinary in nature and would connect emerging issues in law with other disciplines such as art, drama and literature. ■

The William B. Lockhart Lecture

Professor Herbert Hovenkamp delivered the Lockhart Lecture on October 13, 1999. His lecture was titled "Knowledge About Welfare." Professor Hovenkamp is the Ben V. & Dorothy Willie Professor of Law and History at the University of Iowa, where his principal area of teaching and scholarship is federal antitrust law and legal history. He also teaches and writes in the fields of property law, and occasionally, law and economics. Professor Hovenkamp has taught at the University of California Hastings

College of Law and the University of Michigan Law School and has had a Rockefeller Foundation Humanities Fellowship at Harvard University Law School. He also has consulted extensively with the federal government, various state attorneys general, and many private firms. Professor Hovenkamp received his J.D. degree from the University of Texas School of Law in 1978. He also holds a B.A. degree from Calvin College, an M.A. in American Literature and a Ph.D. in American Civilization from the University of Texas.



Herbert Hovenkamp

Professor Hovenkamp is the author of *Antitrust Law* (Aspen, 18 vols, 1980-1999, with the late Phillip Areeda and the late Donald Turner); a standard one-volume textbook *Federal Antitrust Policy: the Law of Competition and its Practice* (1994; second in press); a casebook *Antitrust Law, Policy and Procedure* (with E. Thomas Sullivan, 4th ed. 1999); and some sixty other books and articles.

The annual Lecture, now in its 24th year, honors the late William B. Lockhart who served as Dean of the University of Minnesota Law School from 1956 until 1972. ■

Creation of the Kommerstad Business Law and Entrepreneurship Center

Robert M. Kommerstad, Class of 1952, has made a commitment of \$1 million to establish a Business Law & Entrepreneurship Center at the Law School. The new Center includes the establishment of a new online law journal; the development of a joint J.D./M.B.A. program focusing on entrepreneurship, from both a legal and business perspective; a grant program to fund graduates interested in pursuing entrepreneurial careers; and a speakers' forum series.



Robert M. Kommerstad

Kommerstad is the Chairman and President of Provident Investment Counsel in Pasadena, California, an investment management and consulting firm. He is director and founder of Mellon Bank (formerly 1st Business Bank) in Los Angeles. Kommerstad presently is Chairman of the National Board of Big Brothers/Big Sisters of America and a former president and current board member of Big Brothers of Greater Los Angeles. He is on the Board of Advisors of UCLA's Graduate School of Business and the Board of Directors of the University of Minnesota Law School.

Kommerstad served as a captain in the Judge Advocate General's Department of the U.S. Air Force following graduation from law school. He grew up in South Minneapolis and is a graduate of South High School, where he created and funded the school's first student investment fund.

In announcing the Kommerstad \$1 million gift, Dean E. Thomas Sullivan said, "This outstanding leadership statement permits the University of Minnesota to move in the forefront of law schools in educating and training lawyers in the

important, emerging area of business law and entrepreneurship. This grand gift is another example of Bob Kommerstad's wonderful vision and insight into how lawyers should be trained for the 21st Century." ■

Dean's Roundtable Luncheons



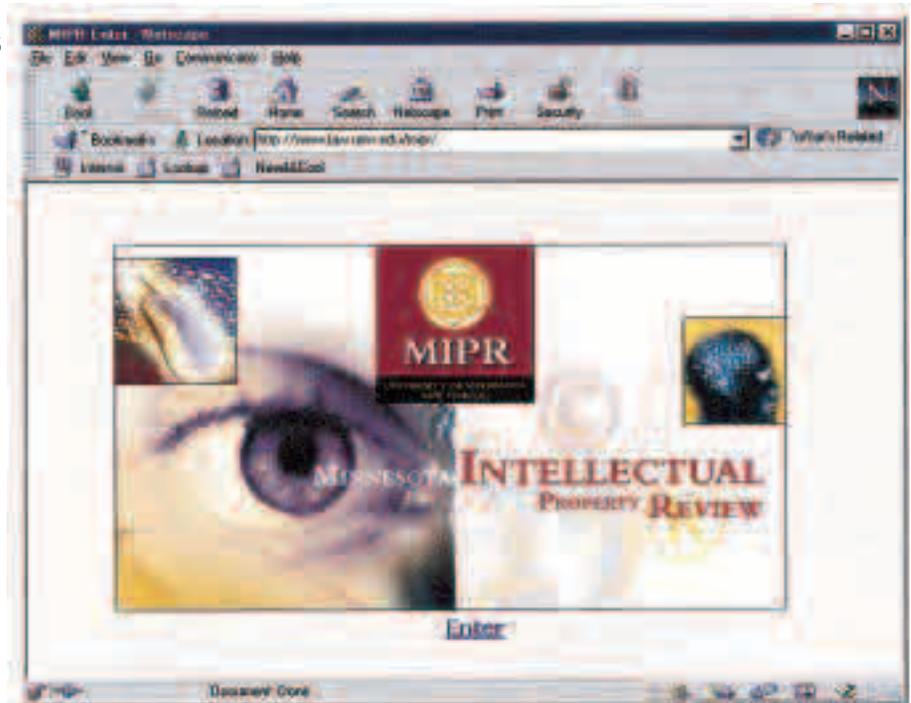
Dean Sullivan sponsors the Dean's Roundtable speakers series for third year students to afford them more opportunities to interact with outstanding members of the legal community. The guest speakers share past experiences and their vision for the future of law practice. This year, the guests of honor were: Wood Forster, Minnesota State Bar Association President; Wendell Anderson ('60), former Governor and Senator; Ann Montgomery ('74), U.S. District Court Judge; Bill Luther ('70), U.S. Congressman; Lee Bearmon ('56), General Counsel, Carlson Companies; John Simonett ('51), retired Justice of Minnesota Supreme Court; and Judy Dutcher ('77), Minnesota State Auditor. Two of the speakers are pictured with students: (top) Congressman Bill Luther and (bottom) Lee Bearmon.

The *Minnesota Intellectual Property Review* Announces the Publication of its First Issue in May 2000.

The *IP Review*, the Law School's fifth scholarly publication, will be the Law School's first online journal.

In its inaugural issue, the *Minnesota Intellectual Property Review* will publish an exciting group of timely and intellectually challenging articles and student notes. The web site can be visited at <http://www.law.umn.edu/mipr>, and the inaugural issue will be available in May 2000. *Minnesota Intellectual Property Review* Volume One, Number One will include the following articles and student notes:

- E. Thomas Sullivan, Dean and William S. Pattee Professor of Law, University of Minnesota Law School. *The Confluence of Antitrust and Intellectual Property at the New Century*. This article addresses the harmony and compatibility of antitrust and intellectual property law through a historical perspective. Dean Sullivan writes that both bodies of law promote innovation in markets and consumer welfare in the long run. He concludes that the relationship between both is inexorably linked to a sound public policy that promotes innovation in a free market economy.
- James P. Chandler, Emeritus Professor of Law at George Washington University Law Center, and President of the National Intellectual Property Law Institute. *Patent Protection of Computer Programs*. This article examines the question whether computer programs are, or ought to be, patentable subject matter under 35 U.S.C. § 101. Second, it considers the questions of whether or not computer programs satisfy the novelty requirements of 35 U.S.C. § 102. Finally, it examines the problem of obviousness, and judgements thereabout, as required by 35 U.S.C. § 103.
- Simone A. Rose, Associate Professor of Law, Wake Forest University School of Law. *Johnny Can Read, But Can He "Surf"? Harmonizing Copyright Law and*

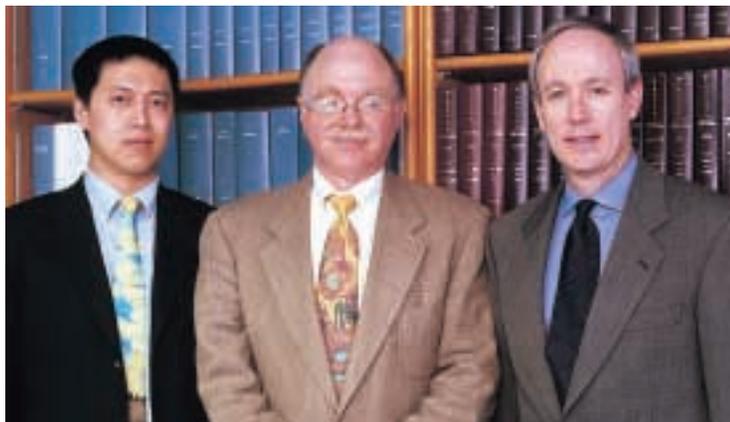


Internet Ethics. This article analyzes how copyright law can be harmonized with the ethics of providing equal access to high technology information in public libraries and schools. Professor Rose writes that libraries and public schools are presently unable to provide uniform access to high technology information. She concludes that the lack of funding for copyright licenses and fear of the vicarious liability for copyright infringement are key factors that impede increased access to the Internet.

- *Title Match: Jesse Ventura and the Right of Publicity vs. The Public and the First Amendment*. Erin C. Skold, J.D. 2001, University of Minnesota Law School. This student comment reconciles the overlap between the First Amendment rights and publicity rights in the context of celebrities turned elected officials. She concludes that publicity rights will unjustly defeat firmly established First Amendment rights when enforced in favor of a politician.
- *Fear of Frankenfoods: A Better Labeling Standard for Genetically Modified Foods*. Matthew J. Franken, J.D. 2001, Univer-

sity of Minnesota Law School. This student comment addresses the distinctions between the limited labeling requirements for genetically modified foods sold in the United States and the stringent labeling requirements applied to these foods in Europe. The note proposes that a voluntary labeling standard, promulgated internationally, would best address the needs of consumers, producers, and the biotechnology industry.

- *The Fourth Circuit's Holding in Ashley Furniture: Abercrombie Finds its Way into the Fourth Circuit*. Rohit A. Sabnis, J.D. 2001, University of Minnesota Law School. The student note addresses the issue of the proper standard of determining inherent distinctiveness in product configuration and trade dress. Specifically, the note uses the Ashley Furniture holding to examine the growing split among the Courts of Appeals on this issue and raises concerns for overly broad trade dress protection. ■



Pictured are: Professor Jim Chen, the reappointed recipient of the Vance K. Opperman Research Scholar Award, Professor Steve Simon, recipient of the Vaughan G. Papke Clinical Professorship in Law and Dean Tom Sullivan.



Suzanne Thorpe, Assistant Library Director for Faculty and Public Services, was appointed as the 1999–2001 Caroline Brede Scholar. The award was funded through a generous endowment left to the Law Library by Caroline A. Brede. Professor Thorpe and Dean Sullivan are pictured here with a portrait of Ms. Brede.



Robert Stein, executive director of the ABA and former Law School dean, and Rebecca Moos, Bassford, Lockhart, Truesdall & Briggs, co-Chair of the Minnesota Task Force on Multi Disciplinary Practice were the speakers for the 1999 Homecoming seminar on October 30. The seminar was titled "Multidisciplinary Practice Firms: Should we Prohibit or Regulate."



The annual Lex Alumnae holiday luncheon was held at the Minneapolis Club on December 10, 1999. Photographs are of the reception preceding the luncheon and Dean Sullivan, Barbara Berens ('90), President of Lex Alumnae, and Professor Barry Feld ('69), the distinguished luncheon speaker.





Every year,

as part of their community service outreach, the Minnesota Supreme Court holds oral arguments on pending cases at the Law School (top photograph, Justice Gilbert not pictured). This year the Minnesota Supreme Court visited the University of Minnesota Law School on March 1, 2000, giving students an opportunity to hear oral arguments. (Photographs are from the reception following the hearing.)





Everything Old Is New Again

Coffin Memorial Union, an historical centerpiece for student activity, is presently undergoing a major renovation which combines new features with old.

According to Maggie Towle, Director of Twin Cities Student Unions for the University of Minnesota, the whole building, which was closed in November, 1999, will be gutted.

“We’re going to try to restore some of the original character of the 1940s building, trying to recreate the fireplace lounge and the front entrance so when people walk into Coffin there’ll be a beautiful two-story lounge with a fireplace on each end. As you continue to walk south into Coffin, the whole backside of the building will be enclosed in glass, creating an atrium look...we’re calling that whole area the winter garden,” Towle said. There will also be a new entrance on the south side of Coffin and a one-thousand square foot bookstore. Every light fixture original to the building will be taken from storage and reused.



Towle and a committee of eight students are overseeing the entire project, which is being accomplished by K.K. E. Architects at an estimated cost of 45 million dollars. “The remodeling of Coffin has been discussed for years,” Towle said, “But it wasn’t until the students on the committee were able to raise the funds during the renovation campaign that it became a reality.” The project will be paid for by student service fees over the next few years, and is scheduled to reopen in Fall, 2001. ■

Law School Public Service Program

When last fall, the Association of American Law Schools released its report, “Learning to Serve: The Findings and Proposals of the AALS Commission on Pro Bono and Public Service Opportunities,” (October, 1999), they called it their first systemic effort to address the role of public service in legal education. While outlining the various pro bono models available at law schools all over the nation, the AALS Commission highlighted one unique program that used a statewide collaborative approach to law school public service: “In Minnesota, [the state’s law] schools have banded together to place students in local volunteer projects through a single referral office, the Minnesota Justice Foundation.” *Learning To Serve*, p. 10 (October, 1999).

This process of “banding together” was no quick or simple task. To the contrary, the program to which AALS referred—called the *Law School Public Service Program*—was the result of a lengthy planning process. In the early 1990s, the Minnesota State Bar Association’s Legal Assistance to the Disadvantaged (LAD) Committee strongly encouraged more law school involvement in pro bono service as part of their comprehensive civil legal services action plan. Then in April of 1994, at a day-long symposium on public service for law students hosted by the University of Minnesota Law School,¹ attendees formalized their desire to work together to recommend an approach to law school public service. Based on symposium recommendations, the LAD Committee formed the Law School Initiatives Subcommittee to develop a model public service policy, which was then approved by each law school—the University, Hamline and William Mitchell—in the spring of 1998. Modeled after Minnesota Rule of Professional Conduct 6.1, the Program encourages every law student in Minnesota to provide 50 hours of voluntary legal service during their time in law school. “This Program continues and builds upon the University of Minnesota Law School’s strong tradition

of providing its students with public service opportunities,” said Law School Dean Tom Sullivan. “Law students enter the legal profession well before they take the bar exam and begin practice; they enter the profession as soon as they enter law school.”

The State Bar Association chose the Minnesota Justice Foundation (MJF) to coordinate and administer the Program because MJF has already been developing volunteer placements and research projects for Minnesota law students. A non-profit agency founded by a handful of University of Minnesota law students back in 1982, MJF has spent the last eighteen years fostering a culture of pro bono commitment among Minnesota law students. Known to many legal practitioners as the agency that raises funds from the Minnesota legal community to fund paid summer clerkships for law students at area legal aid offices, MJF has grown from a small student organization into a professionally-staffed organization of attorneys and law students with the mission of increasing legal services to the state’s low-income and under-represented by connecting law students into the legal services delivery system.

Now, MJF has staffed offices at each school, along with local student chapters that conduct their own public interest law programming. MJF Executive Director Susan J. Curry, an attorney who joined MJF in 1998, the year before the Program’s official launch, says, “This program is truly unique in its approach, and MJF’s dual roles in both the law school community and the public interest law community make it ideally positioned to administer the effort. It’s also important to remember that having a collaborative program is far more efficient than having three different schools maintaining three separate volunteer programs.”

Though Curry is not from Minnesota originally and went to law school in another state, she tells her out-of-state colleagues about MJF and this one-of-a-kind

Program. “The reaction I get is ‘Why doesn’t that kind of collaborative public service model exist in other states and cities?’ My answer is that perhaps, very shortly, other regions will follow Minnesota’s example.” Curry refers to the Program as “the Minnesota Model” and will attend the American Bar Association’s Equal Justice Conference this April in Houston, where she will tell her counterparts in other states about the Program.

After more than a year of developing new volunteer projects to supplement more traditional volunteer opportunities at legal aid offices around the Twin Cities, MJF—together with the Minnesota State Bar Association and the law schools—launched the Program at the start of the 1999–2000 academic year last fall. How is it going so far? “Even though this is not a mandatory public service program, University students are responding to the call. Since we launched the program, we’ve matched 190 University students with law-related volunteer opportunities. And we’re only six months into the year.” This figure already represents a 55 percent increase in University volunteering over last year’s 12 month total of 122 volunteer referrals. In addition, some University students are developing their own law-related volunteer projects or volunteering through another University of Minnesota Law School initiative, such as the University of Minnesota Human Rights Center, headed by Professor David Weissbrodt. “Students who choose to participate in the U of M’s Asylum Law Project can perform all 50 hours over the course of only a few days and often attain courtroom experience,” says MJF’s Director of Programs, Sharon Fischlowitz.

But students can choose among many other types of volunteer opportunities, from AIDS law to zoning law. Some choose to assist immigrants in filling out citizenship and naturalization papers, or to represent clients seeking asylum; others mediate housing and conciliation matters or assist seniors with filling out advanced health care directives. Rishi

Garg, a first year University of Minnesota student, has volunteered at Life's Missing Link, a local non-profit serving inner-city youth, where he helps with restorative justice "peace circles" in schools throughout the metro region. "I've been able to see a different aspect of the law than is presented in class. Volunteering lets you see real people dealing with real legal issues." First-year Siira Gunderson agrees. "It is very important to see how the law effects people in their everyday lives and to see the necessity of legal help for people who can't afford an attorney." Gunderson also points to another reason to volunteer: the opportunities for professional mentoring. "I have a very strong mentoring relationship with my supervisors [at the Minnesota AIDS Project]. Whenever I have a question, I can always talk to them and they always have the time to explain a particular client's situation."

Many students continue to serve their pro bono hours where the need is greatest, at traditional poverty law agencies like the Legal Aid Society of Minneapolis, where clients need assistance with family, consumer, and housing law matters, to name only a few. Sharon Born, volunteer coordinator at the Legal Aid Society of Minneapolis, says, "MJF volunteers have been very helpful. Their volunteering gives me more time to do outreach and innovate to improve services for our clients." Still other students are experimenting with volunteer placements outside of a legal aid clinic setting. At WATCH, advocates use law students as courtroom monitors for felony domestic abuse matters and matters involving orders for protection. Through the Volunteer Income Tax Assistance (VITA) Program, advocates train law students to provide income tax assistance to individuals of low-income, senior citizens, disabled, or non English speaking individuals.

One of the more popular opportunities among law students is the Street Law Project, in which law students teach at-risk high school and junior high students from all over the Twin Cities metro area about their legal rights, responsibilities



Bridget Johnson

Bridget Johnson ('99), MJF Staff Attorney, is serving a two-year National Association of Public Interest Law (NAPIL) Fellowship to implement the Law School Public Service Program.



Erin Keyes

Erin Keyes (3L), pictured at the Minnesota AIDS Project, is among the first class of graduates to be recognized through the Law School Public Service Program. During law school, she has volunteered more than 50 hours with the Disability Law Center, Street Law project, and Minnesota AIDS Project. Erin plans to work in the public interest field after graduation.

and resources. During the Spring 2000 semester, 25 University of Minnesota law students attended a three day training during their winter break to learn about the best ways to present criminal, consumer, employment, government benefits, housing, immigration, juvenile, school, and family law to high school kids. MJF has placed the students at a dozen different high school, junior high schools, and community center locations, where an estimated 275 low-income and at-risk students will learn about laws that are highly relevant to their lives. Says Matt Cohen MJF's AmeriCorps/VISTA attorney charged with steering the Street Law project, "According to some high school teachers, the law students' classes are prompting some of these young kids to consider law as a career. For their part, the law students appreciate the chance to work with kids and they value the broad education in legal issues from the juvenile perspective."

First year students, in particular, are responding to the call to public service, says Curry. "Over two-thirds of all students whom we refer to volunteer placements are first-year students," according to Curry. Volunteering helps first-year students develop their resumes as well as critical legal skills. "At the same time they are

filling a vital client need, they are also gaining valuable legal experience that will help them as they prepare for any legal career," says Curry. Erin Keyes a third-year student preparing to graduate this fall, became involved with MJF as soon as she entered law school. A co-chair of the MJF local student chapter at the U of M, Keyes found her early volunteer experience essential. "Volunteering provided invaluable experience as I prepare for a career in public interest law. I had never seen an attorney in action before coming to law school, and volunteering gave me that opportunity."

To help develop and steer the Program at the three Minnesota law schools, MJF was awarded a two-year fellowship from the National Association of Public

Interest Law (NAPIL). With matching funds from all three Minnesota law schools, MJF hired Law alumna Bridget Johnson ('99) to fill the position. Johnson comes to MJF with experience in a wide range of areas, from environmental justice to children's law. While a law student, she volunteered with the Legal Aid Society of Minneapolis. She also worked with the Environmental Health Coalition in San Diego, and worked on child protection issues with the Minnesota Department of Human Services, Division of Family and Children's Services. Johnson is helping the rest of MJF's staff develop new volunteer opportunities in the community, and recruit and train law student volunteers. Johnson insists, "It really makes sense for the law schools to work together on providing their students volunteer legal opportunities. Legal service providers know that they can work through one agency to satisfy their volunteer needs. This is far more efficient than asking providers to recruit law student volunteers on their own or asking them to respond to wave after wave of law students asking to volunteer at their agency."

Johnson has observed another phenomenon in the law schools. "The launch of the Law School Public Service Program

has inspired various student groups to take on law-related public service projects. I know that the Women's Law Student Association is currently trying to set up a service project at a battered women's shelter, says Johnson." Other student groups at the University have helped low-income people fill out tax forms and have worked with Southern Minnesota Regional Legal Services attorneys to assist seniors with advanced health care directives. "One week-end last fall," says Johnson, "a group of University of Minnesota Law students came into the school on the week-end and used the clinics' phones to conduct follow-up service calls to American Indian clients of Legal Aid Services of North Eastern Minnesota."

Steve Befort, Director of the University of Minnesota's Legal Clinics, explains that the Program is an opportunity for law students to gain practical experience and continue to learn while they serve. "Students are able to take what they are learning in the classroom and translate it into a tangible contribution to the community," Befort said.

Befort and his colleagues on the University's Public Service Committee (a committee that includes student representatives for each class along with Professors Weissbrodt and Gervail and Dean Meredith McQuaid) have helped develop the policies and guidelines for the Program's implementation at the law school. According to Befort, the Program is an ideal response to the call from the legal profession to incorporate public service

work into the law school culture. "Both the public and the profession have much to gain from expanding pro bono involvement among lawyers and law students. Our hope is that this Program will foster and sustain the culture of pro bono commitment in the Minnesota Law Schools."

Goals of the Program

- to provide immediate assistance to under-staffed public interest law programs that serve low-income or disadvantaged Minnesotans
- to provide a well-trained and informed group of future attorneys committed to pro bono and public service
- to instill an ethic of public service in law school graduates by making public service and poverty law an integral part of their legal education

Notes

1. The Articles of this Minnesota Symposium: Legal Education & Pro Bono, are published in the University of Minnesota Law School's *Journal of Law and Inequality*, Volume XIII, No.1 (December 1994). ■

National Minority Education Issues Presentation and Panel Response

On April 30, 1999, the Institute on Race & Poverty hosted a presentation by Dr. William Trent, associate chancellor at the University of Illinois at Urbana-Champaign, on minority education issues. Trent reported that research provides strong evidence that "educational equity is a goal to be achieved" and that there are demonstrated benefits in working toward desegregation. He added that his research indicates that teacher efficacy (experience) influences how important the race variable is in student performance. Trent added that student achievement tests should not be used to put minorities into less challenging educational programs while their white peers gain access to better schools, programs and teachers. Following Trent's remarks, Executive Director John Powell led a panel discussion, giving educators, an advocate and a high school student and the audience a chance to respond to Trent's remarks. ■

Judge Mathis Visits Law School



Judge Greg Mathis (right), from the nationally syndicated television show "Judge Mathis" addressed students and members of the community at the Law School on February 23, 1999. In 1995, he was elected as judge for Detroit's 36th District in 1995, making him one of the youngest judges in the nation. His election became a national success story and a symbol of hope for urban youth who are struggling to overcome the modern-day pressures and hardships of poverty, drugs and violence. A former street youth and high school dropout, his lawlessness brought him before a judge who cared, a judge who ordered the teenaged dropout to get a G.E.D. or face jail time. He obtained his G.E.D. and went on to become a lawyer, a committed civil rights activist and public servant. Judge Mathis is pictured with Francis Green (2L), President of the Black Law Student Association.

Career Services

What Can Grads Do For Current Students?

Fall Interviewing 2000

In conjunction with the Fall 2000 Reunion Weekend on September 22, 2000, the Career Services Office (CSO) invites returning graduates to conduct On Campus Interviews for their employers either the week before or the week after the Reunion.

New York and Washington, D.C. Off Campus Recruitment Programs

This will be the third year for the New York program, which has more than doubled in size, and the first year for Washington, D.C. Please encourage your New York or D.C. area employers to participate in these fall interview programs.

Get Out of Town!! Programs

Students are very interested in information about practice outside of the Twin Cities. When you are in the Cities for business or vacation, if you can take time out of your schedule to meet with students, the CSO can schedule a "Get Out of Town!!" session with just a few days' notice.

Mentors for the Class of 2003

Participants in the First Year Mentor Program commit to talking to their students three times each semester, meeting with them if possible whether in the Twin Cities or around the country, and serving as a resource and sounding board for their questions.

For information and registration for any of these programs, please contact Susan Gainen at 612/624-9881 or gain001@tc.umn.edu or Nora Klaphake at 612/626-9467 or klaph002@tc.umn.edu ■

Class of 1999 Employment Report

Total Class	252
Unknown	[2]
Unemployed, not seeking employment	[14] (Babies, travel, illness, care for injured parents, surprise inheritance, time with kids)
	236
Full time degree	[7]
Seeking Employment	229
Unemployed, seeking employment	[2]
Total Employed	227

227 employed of 229 seeking employment 99.12% employed

Legal full time	217	95.6% (of 227 employed)
Legal part time	2	0.9
Non legal professional FT	5	2.2
Non legal other FT	2	0.9
Non-legal other PT	1	0.4

Types of Employment

Law firm	114	(50.2%)	50.0%
Judicial Clerkships	54	(23.78%)	24%
Business and Industry	37	(16.29%)	16%
Government	11	(4.84%)	5%
Public Interest	7	(3.08%)	3%
Military	5	(2.2%)	2%

Geographic Distribution

Twin Cities Metropolitan Area	61%
Greater Minnesota	6%
Out of State	33%

- **National:** Median Private Practice: \$70K; Median overall salary: \$50K; Median Public: \$30,887K; Median Combined Private Practice/Business & Industry: \$65K.
- **Minnesota only:** Median Private Practice: \$70K; Median overall: \$42K
- 86% Employed At Graduation; 2% non-legal professional; 1.3% part time or temporary
- Range of \$\$\$: \$25K (Non-legal professional)–\$140K (Multi-national law firm)
- 33% left Minnesota (75/227), 6% to Greater Minnesota; 24 states (AK, AZ, CA, DC, FL, IL, IN, LA, MA, MI, MN, MO, ND, NE, NJ, NY, PA, SC, SD, TN, UT, VA, WA, WI)

Class of 1999 Judicial Clerks

Federal Courts

Mark Bellermann	Judge S.J. Plager (Federal Circuit, Washington DC)
Stacey Bettison	Judge Myron H. Bright (8th Circuit, Fargo, ND)
Curtis Fisher	Magistrate Judge Howard T. Snyder (Jacksonville, FL)
David Fuller	Judge Roger Wollman (8th Circuit, Sioux Falls, SD)
Margaret Garvin	Judge Donald Lay (8th Circuit, St. Paul, MN)
Thomas Jancik	Magistrate Judge Raymond L. Erickson (Duluth, MN)
Ryan Johnson	Judge Frank Magill (8th Circuit, Fargo, ND)
Douglas Micko	Judge Gerald Heaney (8th Circuit, Duluth)
David Neubeck	Ho-Chunk Nation Trial Court (Black River Falls, WI)
Ranga Nutakki	Magistrate Judge John M. Mason (St. Paul, MN)
Diedre McGrath Rehfeld	Judge Donald Lay (8th Circuit, St. Paul, MN)
Michael Ross	Magistrate Judge E. S. Sweringen (St. Paul, MN)
Estella Schoen	Judge Harold Baer (Southern District of New York, NY, NY) (2000 Term)
Stacey Slaughter	Judge Michael Davis (District of Minnesota, Minneapolis, MN)
Mark Weidemaier	Judge Dolores K. Sloviter (3d Circuit, Philadelphia, PA)
Elizabeth Welter	Judge John Tunheim (District of Minnesota, Minneapolis, MN)

Minnesota Appellate Courts

Janelle Beitz	Judge Gary Crippen (Court of Appeals)
Zenaida Chico	Chief Judge Edward J. Toussaint (Court of Appeals)
Amy Churan	Judge G. Barry Anderson (Court of Appeals)
Michael Dolan	Judge Bruce Willis (Court of Appeals)
Michael Hellwich	Justice Paul Anderson, Justice James H. Gilbert (Supreme Court)
Paul Kohls	Judge Jill Halbrooks (Court of Appeals)
Nancy Mate	Judges Gary Crippen, Judge Jack Davies, Judge Harriet Lansing (Court of Appeals)
Jennifer McKenna	Judge Marianne Short (Court of Appeals)
Kari Thoe	Judge Harriet Lansing (Court of Appeals)
Stacey Tidball	Judge Thomas J. Kalitowski (Court of Appeals)
Leslie Watson	Judge Thomas J. Kalitowski (Court of Appeals)
Jessica Whitman Maher	Judge Gary Crippen (Court of Appeals)

Minnesota Trial Courts

Vija Brookshire	Judge James Swenson (4th Judicial District, Minneapolis)
Paula Brummel	Judge John J. Sommerville (4th Judicial District, Minneapolis)
John Bryant	Judge Leroy W. Yost (1st Judicial District, Glencoe)
Shannon Campbell	Judge Robert Blaeser (4th Judicial District, Minneapolis)
Michelle Clark	Judge Thomas M. Stringer (7th Judicial District, Fergus Falls)
Mary Crowson	Judge Ancy Morse (3d Judicial District, Rochester)
Tina Dobbelaere	Judge Cara Lee Neville (4th Judicial District, Minneapolis)
Jennifer Dunn-Foster	Judge Renee L. Worke (3d Judicial District, Waseca)
Heather Elliott	Judge Phillip Bush (4th Judicial District, Minneapolis)
John Ellsworth	Judge Bruce Douglas (10th Judicial District, Buffalo)
Brian Farrell	Judge Vicki E. Landwehr (7th Judicial District, St. Cloud)
Susan Fitzke	Judge Myron S. Greenberg (4th Judicial District, Minneapolis)
Cynthia Frost	Judge Stephen D. Swanson (4th Judicial District, Minneapolis)
Ruth Gaydos	Judge Patricia Belois (4th Judicial District, Minneapolis)
Naomi Isaacson	Judge Janet Posten (4th Judicial District, Minneapolis)
Jennifer Jameson	Judge Gary Larson (4th Judicial District, Minneapolis)
Lisa Kroll	Judge William Howard (4th Judicial District, Minneapolis)
Timothy Maher	Judge Franklin Knoll (4th Judicial District, Minneapolis)
Joseph McGown	Judge Stephen C. Aldrich (4th Judicial District, Minneapolis)
Dan Rehlander	Judge Timothy Bloomquist (10th Judicial District, Mora)
Havilah Solarz	Judge Marilyn Rosenbaum (4th Judicial District, Minneapolis)
Bret Thiele	Judge Terry Hallenbeck (6th Judicial District, Duluth)
Benjamin Warpeha	Judge Gary J. Pagliacetti (6th Judicial District, Virginia)
Sara Winge	Judge Bruce Christopherson (8th Judicial District, Granite Falls)

Other States

Kathy Jiminez	Judge Niesje Steinkruger (Superior Court, 4th District, Fairbanks AK)
Carl Johnson	Judge Peter Michalski (Superior Court, 3d District, Anchorage AK)

Structured Study Groups Provide Framework for First Year Students

Socrates said “I cannot teach anybody anything, I can only make them think,” and it seems a fair argument to say that the Structured Study Group model at the Law School has evolved in a way that helps first year students who choose to participate, learn to consider how their professors think about the material they present in order to help the students grasp the materials themselves.

Meredith M. McQuaid, Dean of Students, and Professor Carol Chomsky direct the structured study group program, and have redefined it over the past few years to best fit the needs and desires of the law students involved. Dean McQuaid said the model was based on other graduate programs where “The idea is that you pick peers, not to serve as teaching assistants but as study group leaders that actually take what the students are learning in class and facilitate discussion. It’s another way to arrange the materials that takes the students out of the lecture.” Professor Chomsky added “We hope to provide academic support for students but also enrich the whole [academic] environment.”

During spring semester, McQuaid and Chomsky invite first- and second- year students who think may be well-suited to act as student instructors for the next year to apply for the position. They have had great success in interested responses.

“The students [applying for instructor positions] get interviewed based on their success in first year, background in teaching or some kind of related involvement, and a sensitivity to diversity and a multicultural environment, a sense that they can relate well to other students,” Chomsky said. Both McQuaid and Chomsky added that they like to assign students to instruct first year courses taught by the same professor they had. Faculty can also recommend students to act as instructors.

“I think there is among the faculty a growing awareness and appreciation for what we do. At first our funds were limited, and we chose professors who we knew were open to this kind of teaching style. Now we have faculty actually going to Dean Sullivan and asking if they can have a structured study group,” McQuaid said.

...What they present to the student instructors is the notion that people have different learning styles and strengths; some learn better by reading, some by hearing, and others by doing...

The students who are chosen to be instructors participate in a seminar given by McQuaid and Chomsky that meets once a week and covers such issues as learning styles, diversity, concepts of how things are portrayed in the classroom and how to break down legal analysis. Students are given the opportunity to share ideas and teaching styles. Chomsky said “The seminar gives us a framework for doing different things at different times...we’re bringing to them a lot of understanding about learning theory that we’ve learned over the last several years, to give them a broader context then ‘what are we doing next week?’”

She added that part of what they present to the student instructors is the notion that people have different learning styles and strengths; some learn better by reading, some by hearing, and others by doing. “The idea is to teach differently at

different times, in order to reach everyone. They need to vary what they do in structured study group, realizing that people have different strengths.”

“Structured study group is important because it plays to all students,” said student instructor George Mader. He added, “They’re very concerned about just making it through their classes. Structured study group tends to do a lot of collaborative work, allows the students to compare answers, see how someone else thinks, and we try to facilitate them learning from one another. It’s a large study group organized by someone who’s been through first year already.”

Mader, a third-year law student who worked as a structured study group instructor last year as well as this year, was a math professor at Rock Valley College in Rockford, Illinois before entering law school. While he noted that most students have formed their own study groups outside of the structured study groups, they often come together at his group to get more ideas. He has attended McQuaid’s and Chomsky’s seminar twice now, and feels it’s even better for him the second time around. “The supplemental readings make me more aware that not everyone thinks the same way I do,” he said, “The Socratic method works for some but not for others, and it gives people a chance to learn in a different way. The students react favorably, and if they don’t like it, they are not required to attend.”

He added “The thing that’s difficult for first year students to learn is that it’s not so much the substance and yes, there is substance in the course, there’s rules you have to know, there’s doctrine, common law, and so on, that you need to know about every areas you’re studying, but the big difficulty is understanding the process of analysis, being able to get yourself to take any sort of fact situation and not only spot the issues, but the process of

analysis. What these study group sessions are designed to do is to help people process, be active instead of sitting in the classroom and if you're not called on, sort of taking a vacation...the study group forces you to interact."

Wendy Leo Moore, another student instructor in her third year of law school, is also finishing a PhD in sociology. She feels that her background in sociology and her time as a student in John Powell's property class helps her in her capacity as a student instructor. "Structured study group allows students to be less intimidated by the hierarchy of traditional pedagogy...students want to be able to deal with the material and I think it's possible to teach students how to deal with adversarial situations in a safe environment," she said.

"We've had really good people to choose from, and Dean Sullivan is very supportive of this program," McQuaid said. "Overall, if nothing else, we're providing students with an alternative approach for learning, and in getting to know each other in a different format that's less competitive and makes the first year a more enjoyable experience. It's made people feel that we really do want them to succeed." ■

The Foreign Lawyer Observation Program

First in the Country

In the 1998–99 academic year, seven candidates in the University of Minnesota Law School's LL.M. Program for Foreign Lawyers had the opportunity to participate in the initial and experimental "Foreign Lawyer Observer Program" as designed by the Honorable Judge Myron H. Bright ('47) and the Honorable Chief District Judge Paul A. Magnuson. The goal



Judge Myron Bright, Meredith McQuaid, Associate Dean of Students, Anvar Mukanbaev, from Kyrgyzstan, the first participant in the program and Judge Paul Magnuson are pictured.

of the program is to provide judges and lawyers from developing countries with an opportunity to observe first-hand the administration of justice in the U.S., and the application of the rule of law. Although selected primarily due to its proximity to Judge Bright and Judge Magnuson, the University of Minnesota Law School was honored to be the first law school to have the chance to provide seven LL.M. students with an experience beyond the classroom; one which would breathe life into the concepts, goals and ideas they studied, which might otherwise have been merely theoretical. The judges and student participants found the experience challenging and rewarding. The LL.M. students, having now graduated, will return home to their countries with a better understanding of the rule of law as administered in the United States.

LL.M. student participants were identified and selected by the University of Minnesota Law School's Director of International Programs on the basis of country of origin, level of English lan-

guage communication, academic interest and professional background. The pairing of judge to student was fairly random, except in the instance where a student had expressed a particular interest, e.g. in bankruptcy.

At the University of Minnesota Law School, the LL.M. participants were given one or two credits for their participation in the program depending upon how much time the student spent observing some aspect of judicial administration. On the average, a student was expected to spend 10–15 hours per month observing "live" events for the duration of the semester to earn credit towards the LL.M. degree requirements. Each participant is required to produce a written report in journal/portfolio format on their experience.

In the case of appellate judges, it has been discovered, there are fewer opportunities to observe live, interactive events than in the case of district court judges. Through coordination of the participating judges, the LL.M. students were given an opportunity to observe events in courtrooms and chambers beyond that of the assigned judge, which contributed to the experiences of all students.

This year, five foreign lawyers, three federal court judges and two state court judges are participating in the program. The judges from the federal court are Paul Magnuson, Michael Davis ('72) and John Tunheim ('80) and from the state court: Richard Hopper and Marilyn Justman Kaman.

Based on the University of Minnesota model, a number of law schools have adopted similar programs including: Washington University in St. Louis, University of California in Los Angeles, Northwestern University, and Georgetown University. ■

The Future of the Legal Profession: A Symposium on Multidisciplinary Practice

On Saturday, February 26th, 2000, the *Minnesota Law Review* and the University of Minnesota Law School, hosted a national symposium debating the American Bar Association's proposal to permit lawyers to deliver legal services as part of a multidisciplinary practice (MDP). The symposium consisted of three panel discussions, featuring two members of the ABA Commission on MDP and thirteen of the nation's leading professional responsibility and business law scholars. Speakers presented papers debating the benefits and problems of allowing lawyers to engage in MDP, including examination of the market forces driving the debate and the effect of MDP on legal ethics. A question and answer session followed each panel discussion.

The speakers for the symposium were:

ABA Commission on Multidisciplinary Practice Members

Mary Daly, Fordham University School of Law
Geoffrey Hazard, Jr., University of Pennsylvania School of Law
Burnele Powell, Dean, University of Missouri Kansas City Law School

Nationally-known Professional Responsibility Authorities

Heidi Li Feldman, Georgetown University Law Center
Lawrence Fox, Drinker, Diddle and Reath
Bruce Green, Fordham University School of Law
Carol Needham, St. Louis University School of Law
Richard Painter, University of Illinois College of Law
Theodore Schneyer, University of Arizona College of Law
Laurel Terry, The Michigan State University Dickinson School of Law
Charles Wolfram, Cornell University Law School



This picture of the symposium speakers was taken at the symposium banquet on February 25, 2000.

Distinguished Practitioners and Business Law Professors

Edward Adams, University of Minnesota Law School
Sydney Cone, III, Cleary, Gottlieb, Steen & Hamilton
Peter Kostant, Roger Williams University School of Law
Bayless Manning, Former Dean, Stanford University Law School
John Matheson, University of Minnesota Law School
Lowell Noteboom, MSBA MDP Task Force Member

Papers will be published in the May/June 2000 issue of the *Minnesota Law Review*. If you would like further information about the symposium, please contact the *Minnesota Law Review* at 612/625-9330 or by e-mail mnlawrev@tc.umn.edu. ■

Communication Scholar Discusses Privacy

Professor Amitai Etzioni, a world-reknowned sociologist, spoke at the University of Minnesota Law School on November 19, 1999. He discussed his ideas of privacy and the origins of the concept of privacy in the Constitution, focusing on the 4th Amendment. Professor Etzioni received his Ph. D. degree from University of California, Berkeley. He is a University Professor at George Washington University, and for 20 years he was on the faculty at Columbia University. He also has taught at Harvard and

has been a guest scholar at the Brookings Institution. Professor Etzioni is the founder and first President of the International Society for the Advancement of Socio-Economics and past president of the American Sociological Association. Professor Etzioni is the author of nineteen books, the most recent of which is *The Limits of Privacy*, published last spring. He is, by all accounts, the leading communitarian scholar in the country. ■

The University of Minnesota Law School
Presents

**THE TWENTY-FIRST ANNUAL
SUMMER PROGRAM OF
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May 30–June 3 and June 5–9, 2000

This is our twenty-first year of bringing you the very best in continuing legal education! Come and learn from some of the nation's finest teachers. As always, Summer CLE is very affordable; use the SuperPass and save!

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| May 30 | M.B.A. Concepts for Lawyers | Professor Edward S. Adams |
| May 31 | Trends and Developments in Employment Discrimination Law | Professor Miranda McGowan |
| June 1 | The Rehnquist Court: The Most Significant Constitutional Law Decisions of the Past Fourteen Years | Professor Michael Stokes Paulsen |
| June 2 | The Legal Regulation of Electronic Commerce | Professor David McGowan |
| June 3 | Identifying and Eliminating Bias and Discrimination in the Legal System: Codes, Cases, and other Constraints** | Professor Maury Landsman |
| June 5 | Understanding the Current State of the Law in Trademarks, Copyright, and Related Areas of Intellectual Property | Professor Daniel J. Gifford |
| June 6 | Housing as Opportunity: Legal and Policy Challenges to Gentrification and Concentrated Poverty** | Professor John A. Powell |
| June 7 | A Primer on the Law Governing Lawyers: Current Issues in Legal Ethics, Malpractice, Rule 11, and Conflicts of Interest* | Professor Michael Stokes Paulsen |
| June 8 | Legal Research in the Twenty-First Century: From Books to Cyberspace | Professor Joan S. Howland |
| June 9 | Concepts in Entrepreneurship | Professor Edward S. Adams |

3.25 CLE credits have been requested for Identifying and Eliminating Bias

6.50 CLE credits have been requested for all other courses

*Ethics credits requested

**Elimination of Bias credits requested

FOR FURTHER INFORMATION, CALL 612/625-4544

The Institute on Criminal Justice

The Institute on Criminal Justice sponsored a national policy workshop, "Delinquents Under 10: Targeting the Young Offender" on October 1–2, 1999. The event drew a national faculty and an audience of policymakers from around the country to grapple with the challenging issues presented by such young offenders. The workshop was based in part on the research and program development on delinquents under 10 done by Janet Wiig, Executive Director of the Institute, while she was an Assistant Hennepin County Attorney.

The workshop addressed such issues as 1) targeting young offenders as a crime prevention strategy; 2) developmental pathways to delinquency; 3) delinquency predictors; 4) the design of an effective response; and 5) who pays for early intervention. Some of the faculty participating in the workshop were local experts such as Judge Pamela Alexander, 4th Judicial District; State Representative Mary Murphy; and Professor Barry Feld. They were joined by, to name a few, Professor David Farrington, Cambridge University; Howard Davidson, Director of the ABA Center on Children and the Law; Peter Greenwood, RAND; and Professor Gail Wasserman, Columbia University.

The workshop was part of the Institute's semiannual workshop series in which the Institute selects topics of concern to criminal justice policymakers and administrators. These workshops, held in a law school classroom, are limited to approximately 100 persons and designed to promote policy discussion and debate. The Institute's next workshop, "Responding to the Crowded Jail," will be held May 15–16, 2000. Professor Richard Frase, Director of Research and Co-Director of the Institute, will be a featured speaker. ■

1999–2000 Moot Courts Competition

Environmental Moot Court

The Environmental Law Moot Court sent a team of three students to the Pace University Environmental Moot Court Competition in White Plains, New York on February 23–27, 2000. The competition is comprised of a brief writing exercise and oral arguments about a cutting edge hypothetical environmental law problem, with more than 70 teams from around the nation competing. The Minnesota team included Roy Christensen (3L), Craig Barbee (3L) and Kathleen Howard (2L). Though the team did not advance into the final rounds, Roy and Kathleen each received awards for individual performances during the preliminary rounds.



National Moot Court team: administrative director Page Fleeger, coaches Bradley Clary and Pamela Siege, and program assistant Susan Miller. From left: Pamela Siege ('95), Page Fleeger, Christopher McCullough, Steven Olson, Steve LaPierre, Sarah Jepsen, Elizabeth Moffitt, Susan Miller, Karen Johansen Meeker, Bradley Clary ('75).

International Moot Court

After competing in the Midwest regional competition at Washington University Law School in St. Louis on February 18 through February 20 of this year, Minnesota's International Moot Court competition team advanced to the international round in Washington, D.C. on April 2. Team members, Nathan Alexander (2L), Jessica Durbin (2L), Steven Katras (2L), Theodore Kittila (3L), and Mona Peterson (2L), will be arguing the "Case Concerning the Vaccince Trials," a problem involving international bioethics, human rights, and corporate law issues. They will compete against teams from at least fifty other countries, as well as teams from a dozen different regions of the U.S.

ABA National Advocacy

The ABA National Advocacy Competition was on March 3rd and 4th in Houston. Twenty-nine teams participated in the Midwest Region. Two teams participated from the University of Minnesota Law School. Christine Longe (2L) and Michael Tierney (2L) were one team, and Michael Taylor (3L) and Richard Ruzat (3L) were the second team. The Longe-Tierney Team were undefeated

through all three preliminary rounds. They also won the quarter finals and advanced to semifinals, where they lost to a Houston team. The Ruzat-Taylor Team advanced through the preliminaries to the quarter finals where they also lost to a Houston team. Michael Tierney (2L) won the Award for Best Oralist.

National Moot Court

Two teams from the University of Minnesota acquitted themselves with great distinction in the regional rounds of the National Moot Court Competition, held in Minneapolis at the University of Minnesota Law School on November 18 through November 20, 1999. The Petitioner's Team (Christopher McCullough (3L), Steve Olson (3L), and Sarah Jepsen (3L)) finished in second place with a 5-win/1-loss record. They were undefeated until the championship round. Steve Olson won the award for the Best Individual Oral Argument in the Championship. The Respondent's Team (Steve LaPierre (3L), Karen Johansen Meeker (3L), and Elizabeth Moffitt (3L)) reached the quarter-finals, and finished with a 3-win/1-loss record. The Team won the Respondent's Best Brief trophy. Steve LaPierre won the individual trophy

for the Best Overall Oral Advocate in the Tournament. The Petitioner's Team advanced to the National Final Rounds in New York in February, 2000. This is the 9th time in the last 18 years that a University of Minnesota team has gone to nationals.

Maynard Pirsig Moot Court

The Maynard Pirsig Moot Court Oral Argument Competition was held during March 2000 here at the Law School. This is an intra-mural competition among the second year appellate advocacy sections. The first place oral argument trophy went to Amos Cohen (2L), who argued off-brief as Respondent in the championship round. The second place oral argument trophy went to Rebecca Lawrence (2L), arguing as Petitioner in the championship round. The best brief trophy went to Christopher Renz (2L) and the second place trophy went to Tanna Schwarz (2L). A reception was held in the Rare Books Room following the conclusion of the final argument on Thursday, March 16. The final selection for the next ABA National Appellate Advocacy Competition Team has not been finalized as of the date of this article.

Fifteenth Annual University of Minnesota Law School National Civil Rights Moot Court Competition

Held March 2, 3 & 4, 2000

The Fifteenth Annual University of Minnesota Law School National Civil Rights Moot Court Competition was held March 2–4, 2000 at the University of Minnesota Law School. Twenty-eight teams participated: Each team briefed and argued *Walker v. City of Mesquite*, 169 F.3d 973 (5th Cir. 1999), cert. denied, 120 S. Ct. 969 (Jan. 18, 2000), a case that focused on the attempt by white homeowners in an affluent area of Dallas to enjoin construction of low cost public housing units in their community and their claim that the court order directing that such project be built violated the Equal Protection Clause of the U.S. Constitution. The construction project was part of an effort to remedy years of segregation in Dallas public housing. The teams argued whether the white homeowners had standing to challenge the remedial order and, if so, whether their equal protection rights were violated.

The Honorable Norma L. Shapiro, District Judge, United States District Court in Philadelphia, the Honorable Edward Toussaint, Chief Judge of the Minnesota Court of Appeals, former Commissioner of the Minnesota Department of Human Rights, Stephen W. Cooper and Richard L. Varco, Jr., an Assistant Attorney General with the Minnesota Office of the Attorney General, presided over the final argument in Lockhart Hall.

The overall winner of the competition was New York University School of Law. The University of Minnesota Law School team consisting of Susan MacMenamin (3L), and Mike Geiger (3L), placed second. The University of Minnesota Law School team consisting of Phil Duran (3L) and Paul Chestovich (3L) won Best Brief honors. Francis Clay from Mercer Law School Team No. 1 was named Best Oral Advocate with Farrah Pepper of New York University School of Law



The National Civil Rights Moot Court Competition winners pose with members of the final panel. From left to right: Jessica Barnett, Christopher Kiplok and Farrah Pepper of first place New York University School of Law are flanked by the Honorable Norma L. Shapiro and Minnesota Assistant Attorney General Richard L. Varco, Jr. on the left and the Honorable Chief Judge Edward Toussaint, Jr. and Stephen W. Cooper, Esq. on the right.



Faculty Advisor, Professor Carl Warren, fifth from the left, with some of the student members of the National Civil Rights Moot Court administrative team, from left to right: Andrea Kiehl (2L), Sherry Bertschinger (2L), Michael Skoglund (2L), Katie Dunn (2L), Administrative Director Ambur Klein (3L), Administrative Director Katie Kittelson (3L), volunteer Vicki O'Duffy (3L), Orville B. Fitch (2L) and Blong Yang (2L).



The two University of Minnesota teams, National Civil Rights Moot Court Competition Best Brief winners, Phil Duran (3L) and Paul Chestovich (3L), and Second Place winners, Susan MacMenamin (3L) and Mike Geiger (3L), are flanked by their coaches, Jennifer Ampulski, Esq. and Steve Buterin, Esq. who are also Attorney Instructors with the law school's Civil Rights Moot Court.

placing a close second and receiving Honorable Mention. The other teams that advanced to the quarter-final and/or semi-final rounds included Villanova University School of Law and George Mason University School of Law which advanced to the semi-finals, and the University of Wisconsin School of Law Team No. 1, Mercer Law School Teams 1 & 2 and the University of Minnesota Team No. 1 which advanced to the quarter-finals.

As with all of the Law School's moot court programs, the National Civil Rights Moot Court Competition received strong support from the practicing bar and bench. Over 140 members of the bar and bench took part in judging briefs, oral arguments or both. Prior to the competition, the Civil Rights Moot Court offered the volunteer judges a free Continuing Legal Education program, "Breaking Up the Ghetto: The Barriers to Integrating Low Cost Housing and People of Color Into the Broader Community." The well attended program included a panel discussion regarding the legal, constitutional and policy issues involved in housing cases like *Walker v. City of Mesquite* and *Hollman v. Cisneros*. an on-going local case similar to Walker in which several units of subsidized housing on the near north side of Minneapolis have been razed and efforts are being made to integrate its tenants and low income housing into non-minority and more affluent areas of the city and suburbs. The panel consisted of law school faculty member and Director of the Institute on Race and Poverty, Prof. John Powell; Minneapolis Legal Aid attorney Tim Thompson, who represents the class of Minneapolis housing project tenants; HUD counsel Steve Gronewald, Minneapolis Housing Public Housing Authority attorney Jack Cann and NAACP attorney Tom White. Professors Philip Frickey and Jim Chen discussed the appropriate analysis of constitutional and standing issues in cases of this nature. Minneapolis Legal Aid Housing Discrimination Law Project attorney Kevin Reuther discussed the status of equal housing opportunity in the Twin Cities and causes of action and remedies for housing discrimination, and Professor Maury Landsman discussed the ethical issues involved in using class actions to address housing and other forms of discrimination. ■



Photographs from the annual Barrister's Ball, held at the elegant Gale Mansion in south Minneapolis on Saturday, February 26, 1999.

Third Year Student: Well Published Scholar

Jon Lauck is a third year law student and Editor-in-chief of the *Minnesota Journal of Global Trade*. He received his B.S. from South Dakota State University, and his M.A. and Ph.D. in History from the University of Iowa. Lauck wrote his doctoral dissertation about competition issues in the agricultural sector. Specifically, he explored consequences of growing levels of concentration in the agricultural processing sector for farmers who sell their products to those sectors. He also explored the efforts of farmers to organize themselves into bargaining associations and cooperatives to counter the power of the concentrated agricultural processing sector. During the first two years of law school, Lauck revised the dissertation into a book based on the comments of three peer reviewers for the University of Nebraska Press. The book, *American Agriculture and the Problem of Monopoly: The Political Economy of Grain Belt Farming, 1953-1980*, was recently released.

After working as a research assistant for Dean Sullivan, taking classes in antitrust

law from Professor Gifford and agricultural law from Professor Chen, Lauck authored the article "Toward an Agrarian Antitrust: A New Direction for Agricultural Law" for the *North Dakota Law Review* (Fall 1999). The article explores many of the legal implications of his previous research and sets forth a new model for addressing antitrust issues in agricultural markets. Specifically, Lauck advocates a higher level of antitrust scrutiny for agricultural processing sector given the high level of concentration and the absence of bargaining power among farmers.

In the spring of 2000 the *Drake Journal of Agricultural Law* will publish Lauck's article "After De-Regulation: Constructing Agricultural Policy in the Age of 'Freedom to Farm,'" which sets forth a policy framework to be used in the impending debates over the revision of the farm bill in 2002. In the winter of 2000, Lauck authored "Farmer Cooperatives and the Federal Securities Laws: The Case for Non-Application," with Professor Edward Adams. The article calls for a clear cooperative exemption from the securities laws in order to bolster the organizational strength of the farm sector. In the Summer of 1999, the *Minnesota Journal of*

Global Trade published "Against the Grain: The North Dakota Wheat Pooling Plan and the Liberalization Trend in World Agricultural Markets," in which Lauck analyzed a North Dakota plan to promote cooperative exporting.

These writings have led to Lauck's advisory role in the drafting of the Farmers and Ranchers Fair Competition Act, which has been advanced by Senators Patrick Leahy (VT) and Tom Daschle (SD). The proposed statute gives the Department of Agriculture a greater role in the review of mergers in the agricultural processing sector. Lauck was also retained as an expert witness by the Attorney General of Missouri in his defense of the constitutionality of the state's livestock price discrimination law. Lauck testified in Jefferson City in March.

After law school, Lauck plans to return to his home state of South Dakota and practice agricultural law with the firm of Davenport, Evans, Hurwitz & Smith in Sioux Falls. ■



The annual Welcome to the Bar Breakfast was held on October 29 for 1999 graduates and their family and friends, prior to the Minnesota State Bar Swearing In Ceremony.

Judge Roberta Levy Retires from Trial Practice Program

After 24 years as an instructor for the trial advocacy program at the University of Minnesota Law School, Judge Roberta Levy retired from her teaching position after Spring Semester, 1999. She was honored at a reception hosted by Dean Sullivan on October 12.



Pictured are: Sharon Reich, Associated Dean for Administration, Judge Levy and Dean Sullivan.

Reminiscing over her history as a trial practice teacher, Levy said she loved teaching and will miss it, though she's happy to have a slightly less hectic schedule. She remains in her position as a Hennepin County District Court Judge. She added, "It was a great course with great students. They're basically a self-selecting group. These are kids who are really interested in the process and in learning as much as they can."

Judge Levy always employed the NITA (National Institute for Trial Advocacy) method, in which the students "learned by doing" in the setting of an assimilated trial. "It's emotionally and physically exhausting," Levy said, "It tries to simulate a real trial experience in every way...in addition, every night two trial lawyers would be present, and would talk about other approaches, critique students in a constructive, positive way. No one was ever told to go to dentistry school."

Levy praised her students, saying that she believed the course was tough and at times scary for them, adding "These are kids who are really interested in the process and in learning as much as they can. It makes students a little more comfortable the first time they go to court. It comes as close as it can to the real thing."

The Honorable Roberta Levy earned her J.D. degree from the University of Minnesota Law School *magna cum laude* in 1964. Since then she has worked as an associate attorney and assistant public defender as well as a professor of law, teaching evidence, trial advocacy and a civil legal aid clinic seminar.

In 1978 Governor Rudy Perpich named her to the Hennepin County Municipal Court bench. She has been married to University of Minnesota law professor Robert Levy since 1959.

They have three children, all of whom are practicing attorneys. ■

Borgeson awarded 1999 Distinguished Alumnus at the University of Washington

Earl Borgeson has been named the 1999 Distinguished Alumnus by the School of Library and Information Science at the University of Washington.

Borgeson was honored for his long and notable career as a librarian and for his commitment to the field of library and information science. Borgeson is a 1949 graduate of the University of Minnesota Law School. He earned his Masters in Law Librarianship at the School of Library and Information Science (1950) and served as director of the Harvard University Law School Library (1952–1970). In addition, Borgeson, formerly president of the American Association of Law Libraries, directed the Southern Methodist University Law Library (1978–1988), and held high administrative posts in the Stanford University Libraries and the Los Angeles County Law Library.

While directing the law library at Harvard, Borgeson served as a mentor for future presidential hopeful Elizabeth Dole. Borgeson encouraged her to attend law school at Harvard. Borgeson and Dole were reunited while Borgeson was in Seattle to receive his award. ■

Huntrods Receives University Alumni Service Award



Ann Huntrods ('81) was awarded the University of Minnesota Alumni Service Award by President Mark Yudof on January 20, 2000 at Eastcliff. The Alumni Service Award is the highest volunteer service award conferred upon alumni by the University of Minnesota, and recognizes graduates or former students of the University who have contributed extraordinary volunteer service to the University, the University of Minnesota Alumni Association or any of its constituent groups. Ms. Huntrods is a partner in the law firm of Briggs and Morgan.

Distinguished Alumni

John D. Kelly Class of 1974

John D. Kelly is a partner and President of the law firm of Hanft Fride in Duluth. Kelly has 25 year of experience as a trial lawyer, representing individuals, corporate clients and insurance companies in tort actions and commercial disputes, including antitrust, professional liability, product liability, contract, employment, and personal injury matters. Kelly is a frequent instructor in trial advocacy programs.



John D. Kelly

He received his Bachelor of Arts degree in 1968 from Harvard University. After serving in the U.S. Army from 1968 to 1971, he entered the University of Minnesota Law School. Kelly received his J.D. *cum laude* from the Law School in 1974. He was admitted to the Minnesota Bar in 1974 and to the Wisconsin Bar in 1986. He is admitted to practice in the United States District Court for the District of Minnesota, and the United States Circuit Court of Appeals, Eighth Circuit. Kelly serves as President of the Minnesota State Board of Law Examiners. He is a member of the Minnesota and Wisconsin Bar Associations, American Bar Association, the Minnesota Defense Lawyers Association, the International Association of Defense Counsel, and the American Board of Trial Advocates. Kelly is listed in the publications "The Best Lawyers in America" and the "Business Guidebook to Law and Leading Attorneys."

Kelly served as the campaign chair for the 1994–1995 United Way of Greater Duluth Campaign. He serves on the board of the Duluth YMCA and on the board of the Benedictine Health Center. He is a past member of the board, and a current member of the finance committee of the Sacred Heart Music Center. Kelly also serves as a co-chair of the Clinic Endowment for the University of Minnesota Law School Capital Campaign. ■

Earle F. Kyle, IV Class of 1991

Earle F. Kyle IV is Senior Legal Counsel with Medtronic, Incorporated and a former partner with Lockridge Grindal Nauen in Minneapolis, where he also worked for seven years as an associate. In 1999, Kyle was elected to the American Law Institute which has 3,500 members and fewer than 60 members in Minnesota.



Earle F. Kyle, IV

He is a 1991 graduate of the University of Minnesota Law School where he was a member and Article Editor of the journal *Law and Inequality*, recipient of a Royal A. Stone Foundation Fellowship, and member of the Dean's List. Kyle also attended the John F. Kennedy School of Government Senior Summer Institute at Harvard University as an Alfred P. Sloan Foundation Fellow with the Association for Public Policy Analysis and Manage-

ment. He received a DeWitt Wallace Fellowship to attend Cambridge University in England for a year abroad from his studies as an undergraduate at Macalester College in St. Paul. Kyle also received a Master of Planning degree from the University of Minnesota's Hubert H. Humphrey Institute of Public Affairs where he was also a Sloan Fellow. Kyle was a law clerk for Hennepin County District Court Judge LaJune T. Lange. Prior to joining Lockridge Grindal Nauen, Kyle practiced with the law firm of Winthrop & Weinstine in St. Paul.

On appointment by the Mayor of St. Paul, Kyle also served as a Commissioner with the St. Paul Human Rights Commission. Kyle has been a frequent course chair, keynote speaker, and panelist continuing legal education seminars on various litigation topics. He has served as an adjunct professor of legal writing and advocacy at the University of Minnesota and William Mitchell College of Law and a bar exam grader for the Minnesota Board of Law Examiners, is listed in *Minnesota's Journal of Law and Politics* (1995) "Who's Who in Employment Law," is a member of the Hubert H. Humphrey Institute Alumni Board of Trustees, serves on the Penumbra Theatre Company Board of Trustees.

Among other publications, Kyle published a widely praised feature article in *Trial*, the Journal of American Association of Trial Lawyers of America, entitled "Combating Unsavory Deposition Tactics" (September 1997). He currently serves on the Board of the American Bar Association publication *The Practical Litigator*.

He serves on the United States Equal Employment Opportunity Commission Mediation Advisory Board and has served on numerous other boards, is a member of the Association of Trial Lawyers of America, the Federal Bar Association, the Minnesota Association of Black Lawyers, former Co-Chair of the Minnesota Minority Corporate Counsel Program,

and member of the Minnesota and Hennepin County Bar Associations. Kyle presently serves on the Civil Litigation Section Governing Council of the Minnesota State Bar Association, and was recently elected to the Hennepin County Bar Foundation. ■

Richard Moe Class of 1966

When Richard Moe became the seventh president of the National Trust for Historic Preservation, he brought to the position a lifelong interest in history and a career-long commitment to public service.



Richard Moe

A native of Duluth, Minnesota, Moe graduated from Williams College in 1959 and soon launched the public-service career that led to administrative positions in city and state government and the chairmanship of the Minnesota Democratic-Farmer-Labor Party. During this period he also received a law degree from the University of Minnesota Law School.

In 1972 he moved to Washington to be administrative assistant to Senator Walter F. Mondale. Five years later he was named chief of staff to Vice President Mondale and a member of the Carter White House senior staff. He practiced law in Washington from 1981 until he assumed the presidency of the National Trust in January of 1993.

A member of the Committee for the Preservation of the White House and the

boards of the Ford Foundation and the Civil War Trust, Moe was awarded an honorary doctorate from the University of Maryland in 1998. He is co-author of *Changing Places: Rebuilding Community in the Age of Sprawl*, a study of the causes of urban decline and the use of historic preservation as a tool for revitalization, published in 1997; and author of *The Last Full Measure: The Life and Death of the First Minnesota Volunteers*, a Civil War history published in 1993.

Chartered by Congress in 1949, the National Trust is the largest private, non-profit, membership preservation organization in the United States. It has more than a quarter million members nationwide, operates six regional offices and has 20 historic sites. As president, Moe is responsible for leading the organization in its mission to provide leadership, education and advocacy to save the nation's diverse historic places and create more livable communities for all Americans. Under his direction, the National Trust has become an outspoken and effective advocate of controlling sprawl, has launched efforts to demonstrate and document the effectiveness of preservation as a tool for community revitalization, and has reaffirmed its commitment to strengthening the organized preservation movement. ■

Bonnie E. Raquet Class of 1982

Bonnie E. Raquet is the Vice President of Public Affairs at Cargill, Incorporated and President of Cargill Technical Services, Incorporated. Raquet was named Vice President of Cargill's Public Affairs Department in 1996. She manages Cargill's Government Relations office in Washington, D.C. Her responsibilities include representing Cargill's business and corporate policy interests at the federal level and managing Cargill's international business interests in Washington. Raquet is also president of Cargill Technical Services, Inc., Cargill's international agricultural development subsidiary, which is headquartered in Washington.

Ms. Raquet joined Cargill in 1982 as an attorney. In 1985, she transferred to Cargill's Geneva Law Department, and in 1988 she returned to Minneapolis as Senior Attorney in Cargill's Law Department. She relocated to Washington in 1997.



Bonnie E. Raquet

Raquet is admitted to practice law in Minnesota and the District of Columbia. She is a member of the American Bar Association, and the bar associations of Minnesota, Hennepin County and the District of Columbia. She is also a member of the Board of Directors and Executive Committee of the National Policy Association, and a member of the Management Committee of the Pacific Basin Economic Council.

Secretary of Commerce William Daley appointed Raquet to the Advisory Committee on Africa in 2000. The Committee's purpose is to provide the Department with direction on U.S. commercial policy toward Africa and in the region over the next two years.

Raquet was born in Wisconsin Rapids, Wisconsin. She received a bachelor's degree in history from Valparaiso University, and a master's degree in history from Cleveland State University. She graduated *cum laude* from the University of Minnesota Law School in 1982. ■

Gerry Sikorski Class of 1973

Gerry Sikorski is Chairman of the Public Law department of Holland & Knight, one of the largest and fastest growing law firms in the world with more than 960 lawyers that focus on more than 85 areas of the law, and four departments.

Sikorski represented Minnesota in the U.S. House of Representatives for ten years, from 1983 to 1993. During this time he served on the powerful Energy and Commerce Committee, with jurisdiction over telecommunications, finance, trade, consumer protection, health, environment, insurance, nuclear power, securities, utilities, and energy laws. *The New York Times* and the *Washington Post* have acknowledged Sikorski's extensive experience on facets of the Congressional process.

For ten years, Congressman Sikorski served with Chairman Dingell on the



Gerry Sikorski

Subcommittee on Oversight and Investigations, with a purview of all the Committee's subject matter jurisdiction, and served as Vice Chairman to Henry Waxman on the Health and Environment Subcommittee, where he was a leader on health reform and environmental issues.

He was the author of the Community Right to Know law requiring public reporting of toxic emissions and was also a prime sponsor of the 1990 Clean Air Act. Congressman Sikorski also served for

ten years on the Post Office and Civil Service Committee, chairing the Civil Service Subcommittee. For ten years he was a Whip-at-Large in the House leadership. Prior to his time with the House, Congressman Sikorski served as a state senator for six years, chairing committees with jurisdiction over Health, Welfare and Corrections appropriations and publicly regulated industries.

Sikorski graduated *summa cum laude* and Phi Beta Kappa from the University of Minnesota in 1970. He earned his Juris Doctorate in 1973 from the University of Minnesota Law School, where he graduated *magna cum laude*. ■



The tradition continues!

The annual faculty/student softball game was held October 23, 1999.

**The Classes of
1950, 1960, 1970,
1975, 1980 & 1990
are scheduled to
host class reunions
this year.**

Please watch your mail for dates, time and locations.

If you have any questions regarding your reunion, please contact Terri Mische, Director of Alumni Relations and Communications at: misch002@tc.umn.edu or 612/625-6584.

1949

EARL BORGESON was named the 1999 Distinguished Alumnus by the School of Library and Information Science at the University of Washington.

1957

MICHAEL J. GALVIN, JR. received the Saint Paul Area Chamber of Commerce Great Living Saint Paulite Award. The award was presented at the 132nd Annual Meeting, held on January 18, 2000. The Great Living Saint Paulite Award is presented by the Saint Paul Area Chamber of Commerce to honor an individual for his/her continuing exemplary dedication and significant community and public service. Galvin is a partner at the Briggs and Morgan law firm.

1962

JOHN J. MCGIRL, JR. joined the law firm of Leonard, Street and Deinard. His practice focuses in the area of labor relations and litigation. McGirl previously practiced with the former law firm of Doherty, Rumble & Butler.

1964

Mahlon C. Schneider

MAHLON C. SCHNEIDER, vice president and general counsel of Hormel Foods Corporation, was elected senior vice president of external affairs. In this capacity, he continues to serve as general counsel while taking on additional supervisory duties for marketing services and public relations.

1965

RICHARD A. BOWMAN was selected by *The National Law Journal* as one of Minnesota's top ten litigators. Bowman is a partner at the Minneapolis law firm of Bowman & Brooke.

MARTHA A. MILLS was one of the inaugural class of a dozen Laureates of the Academy of Illinois Lawyers recognized by the Illinois State Bar Association (ISBA). The Academy was established to recognize outstanding members of the profession and to highlight their records of achievement as role models. Mills also received a special "Access to Justice" award from the ISBA. Through her not-for-profit agency, Transforming Communities, Mills conducts education, training and consulting primarily in the area of restorative justice.

1967

THOMAS R. THIBODEAU announced the opening of the law office of Thibodeau, Johnson, Feriancek & Costley in Duluth, Minnesota. The firm will focus on civil trials. Thibodeau was formerly with the Duluth firm of Johnson, Killen, Thibodeau & Seiler.

1968

JOAN L. HEIM joined the Washington, D.C. office of Heller, Ehrman, White & McAuliffe law firm.

JIM LICKE has re-opened his practice in Lihue, Kauai, Hawaii.

JAMES R. SCHWEBEL, founder of the law firm of Schwebel, Goetz & Sieben, was selected by *The National Law Journal* as one of Minnesota's top ten trial lawyers.

1969

ROBERT R. WEINSTINE was selected by *The National Law Journal* as one of Minnesota's top ten litigators. He is a partner at the Minneapolis law firm of Winthrop & Weinstine and specializes in complex commercial litigation, including antitrust, securities, banking products liability and shareholder disputes.

1971

MICHAEL V. CIRESI was selected by *The National Law Journal* as one of Minnesota's top ten litigators. Ciresi is a partner in the Robins, Kaplan, Miller & Ciresi law firm.

RICHARD MARK was selected as vice president of the Briggs and Morgan law firm board of directors for 2000.



David Martin

DAVID MARTIN was selected as a partner in the Rider, Bennett, Egan & Arundel law firm. He practices in the Litigation Department in the areas of products liability, toxic torts, and complex litigation.

WILLIAM P. STUDER, a partner in the Minneapolis office of Oppenheimer Wolff & Donnelly, was elected as the chairperson of the Product Liability Advisory Council (PLAC) for a term of office that began on January 1, 2000. Based in Reston, Virginia, PLAC is a national organization whose membership includes more than 125 major U.S. corporations and approximately 300 lawyers in private practice. Studer also was named by *The National Law Journal* as one of the top ten litigators in Minnesota.

1972

DAVID WHITE announced the opening of White & Cummings law firm in Phoenix, Arizona.

1973

FRANK ABRAMSON announced that he is now engaged in the practice of law and

alternative dispute resolution at his own firm. He practices in the areas of family law, personal injury, medical negligence, employment law, mediation and arbitration. Abramson was formerly with the law firm Lapp, Laurie, Libra, Abramson & Thomson.

LARRY M. NORD was selected as a Leading American Attorney by the American Research Corporation. Nord is a partner in the Orman & Nord law firm in Duluth, Minnesota. He practices family law.

RAYMOND D. ROSSINI was named "1999 Minnesota Super CPA" by *Minnesota Law & Politics* and *Twin Cities Business Today*. Rossini is an attorney/financial analyst/tax practitioner representing individuals with large estates, entrepreneurs, and real estate owners at the Minneapolis law firm of Rossini & Rossini.

1974

JEFFREY SHAW was selected as president of the Briggs and Morgan law firm board of directors for 2000.

1976

STUART D. GIBSON received an "Outstanding Performance" Award from the Tax Division of the U.S. Department of Justice for his successful defense of a \$1 billion tax refund suit brought by Bell Atlantic Corporation. This is the fifth such award he has received since joining the Department of Justice in 1984. Gibson was recently re-elected to a second 4-year term on the Fairfax County (Virginia) School Board. Fairfax County Public Schools is the 12th largest school system in the United States.

STEPHEN D. MORRISON was named a Certified Mortgage Banker by the Mortgage Bankers Association of America. The award is the industry's highest; since 1973, 558 awards have been made. Morrison is senior vice president of Industry and Government Relations for Norwest Mortgage Incorporated in Des Moines, Iowa.

1977

EDWARD J. CLEARY, director of the Office of Lawyers Professional Responsibility and the Client Security Board, was recently elected to serve on the Minnesota News Council. The News Council board, which is made up of twelve media members and twelve public members, holds public hearings to consider citizen complaints filed against the news media. Mr. Cleary, a past president of the Ramsey County Bar Association, will serve on the News Council board as a public member.

BRADLEY J. HULBERT practices at the Chicago law firm of McDonnell Boehnen Hulbert & Berghoff, which was named by *IP Worldwide* magazine as one of the nation's top law firms in the area of Intellectual Property Rights.

THOMAS J. SHROYER was named as chief executive officer at the law firm of Moss & Barnett.

1978

MICHAEL S. MARGULIES was elected as a member of The Children's Theatre Company Board of Governors. Margulies is a partner in the Twin Cities law firm of Lindquist & Vennum and is chair of the firm's Real Estate Department.

1980

JORDAN LORENCE argued the student fee case, *Southworth v. University of Wisconsin* before the United States Supreme Court. He lives in the Washington D.C. area and practices at The Northstar Legal Center.

CAROLYN M. McCANN joined the law firm of Leonard, Street and Deinard as a shareholder. She is a member of the Real Estate Law Department and her practice includes all areas of commercial real estate, including real estate strategic planning, purchases, sales, leases and financing. McCann previously practiced with the former law firm of Doherty, Rumble & Butler.

BRUCE W. MOOTY was elected to the positions of managing officer and chair of the board of directors at the law firm Gray Plant Mooty.

CYNTHIA TRANGSRUD, president of Knapp, Petersen & Clarke, has been named "CEO of the Year" by the Glendale Chamber of Commerce. Trangsrud has served as the firm's CEO for seven years, one of the growing number of female managing partners in Los Angeles area law firms.

1981

CHARLES ROGERS was selected as a member of the Briggs and Morgan law firm board of directors for 2000.



Michael W. Unger

MICHAEL W. UNGER was named a partner with Rider, Bennett, Egan & Arundel. He practices in the areas of medical malpractice, commercial, business, personal injury and employment litigation.

1982

JAY L. GRYTDAHL heads the Labor and Employment Department of McGuire, Woods, Battle & Boothe law firm in Chicago.

MICHAEL T. TIERNEY was named a shareholder in the Duluth law firm Clure Eaton Butler. Tierney has practiced for 17 years, primarily as a trial lawyer focused on personal injury and commercial litigation.

1984

BRIGID McGRATH was appointed as an associate judge with the Cook County Circuit Court in November 1999. McGrath was a partner with the law firm of Bell, Boyd & Lloyd.

1985

CARRIE RAYMOND BEDORE, an attorney at the Milwaukee law firm of Reinhart, Boerner, Van Deuren, Norris & Rieselbach, was appointed volunteer, part-time executive director of the Mequon-Thiensville Education Foundation, Inc. The Foundation was established in 1998 to provide funding for educational opportunities in addition to those provided for in the annual school budget. Bedore is also a board member of the Task Force on Family Violence, Inc. She is a banking attorney and shareholder in the law firm of Reinhart, Boerner, Van Deuren, Norris & Rieselbach.

ELIZABETH K. BRANSDORFER was elected vice president of the National Association of Women Lawyers. Bransdorfer is a litigation attorney with the law firm of Mika, Meyers, Beckett & Jones in Grand Rapids, Michigan.

NANCY ERBE has been asked to direct one of seven international graduate Rotary Centers of International Studies in Peace & Conflict Resolution at the University of California, Berkeley. She currently teaches Conflict Resolution, Advanced Conflict Resolution, Ethics of Conflict Resolution and Multicultural Conflict Resolution.

1987

ALAIN M. BAUDRY has been awarded the Hennepin County Bar Association's 2000 Pro Bono Publico Award, Private Sector. He was recognized for his service to support the efforts of the Children's Law Center, by representing children in foster care proceedings. The Pro Bono Publico award is bestowed annually to recognize individual HCBA members for their commitment to pro bono service in the areas of legal services for the disadvantaged. Baudry is a litigation partner at the

Minneapolis law firm of Maslon Edelman Borman & Brand.

1988

JULIA GRAY KRESSIG recently welcomed a third son into the family, Thomas Martin Kressig. Julia works as an English Literature teacher at Visitation Academy in St. Louis, a private Catholic college preparatory school.

1989

JON K. HOPPENSTEADT was selected for inclusion in Marquis Who's Who in America, 54th edition, 2000 and has been nominated for inclusion in the 55th edition, 2001.

1991

Deborah Baumgart

DEBORAH R. BAUMGART has been elected a partner in the law firm Milbank, Tweed, Hadley & McCoy. She is a member of the Global Corporate Finance Group in the Los Angeles office and focuses on private and public securities offerings, including Rule 144A offerings, mergers and acquisitions and general corporate matters.

E. MICHAEL JOHNSON became a partner in the law firm of Sutherland Asbill & Brennan. He is a member of the Corporate Group in the firm's Washington, D.C., office, and his principal areas of practice are mergers and acquisitions, insurance mergers and acquisitions, joint ventures, international joint ventures and corporate commercial law.

1992

JENNIFER REEDSTROM BISHOP has been elected a principal with the law firm of Gray Plant Mooty. She practices primarily in the area of tax-exempt and non-profit organizations law with an emphasis on institutions of higher education, health and religion, and is chair of the firm's Organizations Practice Team.

MARLA HOEHN was elected as a partner at Pillsbury Madison & Sutro law firm. She works in the Palo Alto office and her practice focuses on technology licensing.

ANNE MARRS HUBER was recently named a partner of Kirkland & Ellis in Chicago. Her practice focuses on bankruptcy and corporate law. Huber lives in Glen Ellyn, Illinois with her husband, George, and their daughter, Mary Jane.

DAVID M. JOHNSON announced the opening of the law office of Thibodeau, Johnson, Feriancek & Costley in Duluth, Minnesota. The firm will focus on civil trials. Johnson was formerly with the Duluth firm of Johnson, Killen, Thibodeau & Seiler.

CHRISTOPHER R. MORRIS was elected a shareholder of Bassford, Lockhart, Truesdell & Briggs. His major areas of practice are business and commercial litigation, insurance coverage and professional malpractice defense.

GARY O'CONNOR recently published an article in the *William Mitchell Law Review* entitled, "Rulemaker and Judge: Minnesota Courts and the Supervisory Power."

STEPHEN SCHAEFER has been elected a principal in the law firm Fish & Richardson. He is a member of the firm's litigation and electrical groups and his practice includes all types of intellectual property litigation. Schaefer practices in the Twin Cities office.

1993

JOEL E. ABRAHAMSON joined the law firm of Leonard, Street and Deinard as an associate. His practice focuses in the area of

litigation and employment law, representing businesses and individuals in federal and state court, administrative proceedings and alternative dispute resolutions.

KRISTIN JONES PIERRE recently joined the Minneapolis law firm of Hallelund, Lewis, Nilan, Sipkins & Johnson as an associate attorney. She is a member of the firm's Labor and Employment Practice.

KELLY A. PUTNEY was elected a shareholder of Bassford, Lockhart, Truesdell & Briggs. Her major areas of practice are professional and general liability defense.

MATT PYN was installed as president of the Lockport, New York Bar Association in July 1999. Pynn practices law in Lockport and serves as Vice Chairman of the City of Lockport's Democratic Committee.

1994

MATTHEW FORSGREN joined the law firm of Briggs & Morgan as an associate. He is a member of the Business Litigation section and will continue to practice in the areas of business litigation and criminal defense.

GREGORY D. GISVOLD recently joined the Minneapolis law firm of Hallelund Lewis Nilan Sipkins & Johnson. His practice focuses on health care regulatory issues and litigation.

1995

LAURA BAUMANN recently joined the Employment Law Unit of the California Department of Corrections in Sacramento, California. She received an M.S. degree in Agricultural and Resource Economics from the University of California, Davis in 1997.

ROBERT M. HOGG joined the law firm of Elderkin & Pirnie in Cedar Rapids, Iowa. He practices primarily in the area of litigation.

RICHARD W. PINS joined the Labor and Employment department at Leonard, Street and Deinard as an associate. His



1995 classmates Mark McGuire, John Benson, Chris Wachtler (and four month old son Charlie) celebrated the wedding of Charlie Firth in September 1999.

practice focuses on commercial and general business. Pins previously practiced with the former law firm of Doherty, Rumble & Butler.

KRISTIN J. STAFFANSON has joined the law firm of Krass Monroe as an associate attorney. Her practice focuses in the area of transactional tax.

CELESTE TAYLOR joined the Philadelphia law firm of Duane Morris & Hecksher in the Chicago office. Her areas of focus are general corporate and transactional practice.

1996

BRIAN L. JOHNSRUD has joined the law firm of Brobeck, Phleger & Harrison in Palo Alto, California.

JERRY D. PERRON joined the law firm of Leonard, Street and Deinard as an associate and became a member of the Real Estate Law Department. His practice focuses on commercial sale and purchase of land, lease negotiations, 1031 exchanges and residential real estate. Perron previously practiced with the former law firm of Doherty, Rumble & Butler.

RACHNA SULLIVAN joined the law firm of Rider, Bennett, Egan & Arundel as an associate. She is a new member of the Litigation Department at the Minneapolis law. Before joining Rider Bennett, Ms. Sullivan worked as law clerk for the Hon-



Rachna Sullivan

orable James M. Rosenbaum and as assistant district attorney in the King's County District Attorney's Office, Brooklyn, New York.

1997

CARRIE FISCHER, now Carrie Benson, is a corporate counsel for Target Stores in Minneapolis.

ELIZABETH HWANG joined Walnut Creek's Miller, Starr & Regalia as a real estate and litigation associate.

JENNIFER NESTLE joined the law firm of Schnader, Harrison, Segal & Lewis as an associate and is located in the Philadelphia office. She is a member of the Litigation Department. Nestle previously completed a two-year clerkship with the Honorable Myron H. Bright of the United States Court of Appeals for the Eighth Circuit.



Caroline E. Ostrom

CAROLINE E. OSTROM joined the law firm of Rider, Bennett, Egan & Arundel as an associate. She is a new member of the firm's Litigation Department where she focuses her practice in commercial and insurance litigation.

STEPHEN P. SAFRANSKI is an associate in the Litigation Department at Jenner & Block in Chicago.

MATTHEW THIBODEAU was featured in an article describing his position as English teacher in small village in Bolivia in the *Duluth Budgeteer News*.

1998

ADAM ALTMAN is a Solicitor General for the Mille Lacs Band of Ojibwe.

TOM BEIMERS joined the litigation and appellate practice of Covington & Burling in Washington, DC.

MICHELE CARTER joined the law firm of Gibson, Dunn & Crutcher in Los Angeles, California.

RACHEL L. CLEARY became an Attorney Editor on the Southwest Team of the Cases Publishing Division of West Group in Eagan, Minnesota.

KRISTINE DUNN joined the law firm of Skadden, Arps, Slate, Meagher & Flom in Los Angeles, California. She is a member of the Banking and Institutional Investing Department.

DIEGO H. EDBER is an attorney at Ball & York in Ventura, California.

INGRID L. HALLETT joined the law firm of Messerli & Kramer as an associate. She focuses on corporate finance and securities.

DAVID SCHULTZ moved from the University of Wisconsin and is now professor and director of the Hamline University doctoral program in public administration in the Graduate School of Public Administration and Management. He also is an adjunct professor at the University of Minnesota Law School teaching a class called "Courts and Regulation of the Political Process." His most recent book, *It's Show Time! Media, Politics and Popular Culture* was just published by Peter Lang Publishing, Inc.

LAURA M. VARRIALE joined the law firm of Silton, Seifert, Carlson & Gamble in Appleton, Wisconsin.

SHAWN WOODBURY is an associate at the Minneapolis law firm of Messerli & Kramer. He practices with the Credit and Collections Department focusing on collection of debt in credit, bankruptcy and deceased accounts. Woodbury previously served as a law clerk to the Honorable John J. Sommerville.

1999

TRAVIS ANDERSON is an associate at the Minneapolis law firm of Oppenheimer, Wolff & Donnelly. He practices in the area of corporate finance and transactions.

STACY LYNN BETTISON is serving as a law clerk to the Honorable Myron H. Bright of the United States Court of Appeals for the Eighth Circuit.

JIM CARLSON has joined the Venture Capital Group at Piper Marbury Rudnick & Wolfe, where he focuses on new, emerging internet companies.

MARK E. CZUCHRY has joined Robert W. Baird & Company as a Financial Advisor. He is working in the Edina office.

MAI DINH, now Mai D. Lauer, is working at Kinney & Lange in Minneapolis.

PATRYK DRESCHER joined the Minneapolis law firm of Halleland, Lewis, Nilan, Sipkins & Johnson as an associate attorney. His practice will focus on litigation.

ROB FOWLER joined Pritzker & Associates law firm in Minneapolis.

RACHEL GRONECK joined the Department of Justice Executive Office of Immigration Review in Phoenix, Arizona.



Leondra M. Hanson

LEONDRA M. HANSON joined the Minneapolis law firm of Rider, Bennett, Egan & Arundel, where she focuses her practice on personal injury litigation, employment law litigation, environmental law and insurance defense.



John Hauge

JOHN HAUGE is a new member of the Minneapolis law firm of Rider, Bennett, Egan & Arundel. He focuses his practice on labor and employment, corporate and education law.

CHUL KWAK is a first-year associate at the Minneapolis law firm of Oppenheimer,

Wolff & Donnelly. He practices in corporate finance and transactions.

SARAH OWSOWITZ, now Sarah Owsowitz-Klein, has joined the San Francisco City Attorney's office as part of the team of attorneys representing the San Francisco Municipal Railway (MUNI).

LISA NETZER joined the law firm of Maslon Edelman Borman & Brand. She recently completed a clerkship with Judge William N. Howard in Hennepin County.

KAI H. RICHTER joined the law firm of Maslon Edelman Borman & Brand as an associate. His practice focuses on litigation and is a member of the firm's labor and employment team.



Marlo Webber Turcotte

MARLO WEBBER TURCOTTE is a new member of the Minneapolis law firm of Rider, Bennett, Egan & Arundel, where she focuses her practice on trusts and estates, estate planning, estate and gift taxation, and probate and trust administration.



Raphael Wallander

RAPHAEL WALLANDER is a new member of the Minneapolis law firm of Rider, Bennett, Egan & Arundel, where he focuses his practice on bankruptcy, commercial litigation, creditor's remedies and computer law.

JEFFREY B. WITT is a first-year associate at the Minneapolis law firm of Oppenheimer, Wolff & Donnelly. He practices in the area of employee benefits. ■

In Memoriam

Fred J. Hughes Class of 1934

Fred J. Hughes passed away on Tuesday, December 7, 1999. He died of heart failure at the age of 91.

Hughes was born in Chippewa Falls, Wisconsin in 1908. He was a graduate of St. John's University and received his law degree from the University of Minnesota Law School in 1934. He moved to St. Cloud to practice law and for several years he taught at St. John's University.

Hughes served on the Minnesota State Board of Tax Appeals from 1943-1955. He helped elect former Minnesota Republican Governors Harold Stassen and Harold LeVander. Governor Elmer L. Andersen appointed Hughes to the University of Minnesota Board of Regents in 1961, where he served for 16 years.

Hughes was a very active and well respected civic leader. He was a charter member and former trustee of St. Peter's Catholic Church. He was a former member of the board of Trustees of St. John's University and Cathedral High School and served on the Board of Advisors of the College of St. Benedict. In addition, he served as a member of the Board of Directors of the former St. Cloud National Bank, a founding member of the St. Cloud United Way and served on numerous state, local and church commissions and committees.

He also was a member of the Crosier Apostolates, Knights of Columbus Council 961, Knights of St. Gregory, Stearns Benton Bar Association and Minnesota State Bar Association. He was the first recipient of the Father Walter Reger Award at St. John's University.

Hughes' wife, Valeria, died in January 1999. He is survived by five children, two of whom are Keith and Kevin, class of 1962, 15 grandchildren and 13 great-grandchildren. ■

In Memoriam

Class of 1927

Robert J. Karon
Duluth, MN
July 1, 1999

Class of 1934

Roger S. Barrett
Winnetka, IL
January 18, 2000

Julius A. Coller
Shakopee, MN
February 22, 2000

Fred J. Hughes
St. Cloud, MN
December 7, 1999

Class of 1935

William A. Green
Edina, MN
November 23, 1999

Honorable Glen W. Swenson
Buffalo, MN
February 14, 2000

Class of 1937

Marianne B. McConnaughey
Chevy Chase, MD
May 29, 1999

Class of 1943

Sidney Lorber
Minneapolis, MN
January 9, 2000

Class of 1947

Chester A. Bruvold
Moose Lake, MN
February 28, 2000

Lowell H. Carlson
Menlo Park, CA
January 16, 2000

Class of 1948

William R. Busch, Sr.
St. Paul, MN
September 30, 1999

Carl A. Swenson
Shoreview, MN
December 8, 1999

Robert V. Tarbox
Edina, MN
January 24, 2000

Class of 1949

Honorable Charles C. Johnson
Madison Lake, MN
October 4, 1999

Raeder Larson
Minneapolis, MN
November 1, 1999

Class of 1952

William S. Rosen
Edina, MN
November 24, 1999

Class of 1957

Gerald M. Singer
Edina, MN
December 30, 1999

Class of 1961

Maurice J. Nelson
Sonoma, CA
September 4, 1998

Class of 1964

Theo P. Wangenstein
Plymouth, MN
January 4, 2000

Class of 1965

Michael B. Hoffman
Minneapolis, MN
January 5, 2000

Class of 1967

David T. Bennett
Minneapolis, MN
September 11, 1999

Class of 1969

Alan E. Segal
Minneapolis, MN
November 28, 1999

Class of 1970

Robert M. Spector
Minneapolis, MN
November 17, 1999

Class of 1977

Shirlene A. Fairburn
Minneapolis, MN
February 22, 2000

Class of 1984

Carole A. Robertus
Plymouth, MN
December 20, 1999

Class of 1987

Steven C. Gordon
Burnsville, MN
November 18, 1999

Faculty Scholarship 1999–2000

Books

Edward S. Adams, *SECURITIZATION SOURCEBOOK* (forthcoming 2000) (with Michael J. Macaluso).

Edward S. Adams, *BUSINESS ORGANIZATIONS* (forthcoming 2000) (with John H. Matheson & David Runkle).

Edward S. Adams, *MODERN CORPORATE FINANCE* (forthcoming 2000) (with Michael Bradley).

Edward S. Adams, *CORPORATIONS AND BUSINESS ASSOCIATIONS—STATUTES, RULES, AND FORMS* (1999 ed.) (with John H. Matheson).

Stephen F. Befort, *EMPLOYMENT LAW AND PRACTICE* (Supp. 1999) (with Richard Gillman).

Karen C. Burke, *FEDERAL INCOME TAXATION OF PARTNERS AND PARTNERSHIPS* (2d ed.) (1999).

Laura Cooper, *ADR IN THE WORKPLACE* (forthcoming West Group 2000) (with Dennis R. Nolan & Richard A. Bales).

Laura Cooper, *WORKPLACE ADR SIMULATIONS AND TEACHER'S GUIDE* (forthcoming 2000) (with Carolyn Chalmers).

Barry C. Feld, *BAD KIDS: RACE AND THE TRANSFORMATION OF THE JUVENILE COURT* (1999).

Barry C. Feld, *READINGS IN JUVENILE JUSTICE ADMINISTRATION* (1999).

Barry C. Feld, *CASES AND MATERIALS ON JUVENILE JUSTICE ADMINISTRATION* (2000).

Mary Louise Fellows, *IS ACADEMIC FEMINISM DEAD? THEORY IN PRACTICE* (2000) (coeditor).

Richard S. Frase, *MINNESOTA MISDEMEANORS AND MOVING TRAFFIC VIOLATIONS* (3rd ed. 1999) (with Martin J. Costello & Stephen M. Simon).

Philip P. Frickey, *LEGISLATION AND STATUTORY INTERPRETATION* (2000) (with William N. Eskridge, Jr. & Elizabeth Garrett).

Bernard M. Levinson, *DEUTERONOMY AND THE HERMENEUTICS OF LEGAL INNOVATION* (1997).

Bernard M. Levinson, *GENDER AND LAW IN THE HEBREW BIBLE AND THE ANCIENT NEAR EAST* (1998) (coeditor with Victor H. Matthews & Tikva Frymer-Kensky).

E. Thomas Sullivan, *PRIVATE ANTITRUST ACTIONS* (2000 Supp.) (with Doug Floyd).

E. Thomas Sullivan, *ANTITRUST LAW, POLICY, AND PROCEDURE* (2000 Supp.) (with Herbert Hovenkamp).

E. Thomas Sullivan, *FEDERAL LAND USE LAW* (14th ed., 2000) (with David Mandeker & Jules Gerard).

Articles

Edward S. Adams, *A Comparative View of Corporate Governance: Lessons From France, Germany, and Japan*, (forthcoming 2000).

Edward S. Adams, *Analyzing Strategic Bankruptcy: A Case Study of the Airline Industry*, (forthcoming 2000).

Edward S. Adams, *A Proposal for Reforming the Real Estate Taxation System*, (forthcoming 2000).

Edward S. Adams, *Revisiting Derivative Title and Negotiability in an Age of New Technology*, (forthcoming 2000).

Edward S. Adams, *A New Corporate Stockholder Model*, (forthcoming 2000).

Edward S. Adams, *Executive Evaluation and 360° Consideration*, (forthcoming 2000).

Edward S. Adams, *Beyond the Formalism Debate: Expert Reasoning, Fuzzy Logic, and Complex Statutes*, 52 *VANDERBILT L. REV.* 1243 (1999) (with Daniel A. Farber).

Edward S. Adams, *Law Redesigns Law: Legal Principles as Principles of Law Firm Organization*, 51 *RUTGERS L. REV.* 1133 (1999) (with Stuart Albert).

Edward S. Adams, *Spin-Offs, Fiduciary Duty, and the Law*, 68 *FORDHAM L. REV.* (1999) (with Arijit Mukherji).

Beverly Balos, *A Matter of Prostitution: Becoming Respectable*, 74 *N.Y.U. L. REV.* 1220 (1999) (with Mary Louise Fellows).

Stephen F. Befort, *The ADA in Turmoil: Judicial Dissonance, the Supreme Court's Response, and the Future of Disability Discrimination Law*, 78 *OREGON L. REV.* 27 (1999) (with Holly Lindquist Thomas).

Stephen F. Befort, *Mental Illness and Long-term Disability Plans Under the Americans with Disabilities Act*, 2 *U. PA. J. LAB. & EMPLOYMENT L.* 287 (1999).

- Stephen F. Befort, *The Sounds of Silence: The Libertarian Ethos of ERISA Preemption*, 52 U. FLA. L. REV. 1 (forthcoming 2000) (with Christopher J. Kopka).
- Elizabeth Heger Boyle, *Is Law the Rule? Using Political Frames to Explain Cross-National Variation in Legal Activity*, 78 SOCIAL FORCES (forthcoming 2000).
- Elizabeth Heger Boyle, *Gesture Without Motion? Poetry and Politics in Africa*, 2 HUMAN RTS. REV. (forthcoming 2000).
- Elizabeth Heger Boyle, *National Legislating as an International Process: The Case of Anti-Female-Genital-Cutting Laws*, L. & SOC. REV. 34 (forthcoming 2000) (with Sharon Preves).
- David P. Bryden, *Redefining Rape*, 3 BUFF. CRIM. L. REV. ___ (forthcoming).
- David P. Bryden, *Rape and the Partisan Mind*, 3 BUFF. CRIM. L. REV. ___ (forthcoming).
- Dan Burk, *The Trouble With Trespass*, 3 J. SMALL & EMERGING BUS. L. (forthcoming 2000).
- Dan Burk, *Cyberlaw and the Norms of Science*, 1999 B.C. INT. PROP. & TECH. F. (forthcoming 2000) <http://infoeagle.bc.edu/bc_org/avp/law/st_org/iptf/commentary/content/burk.html>
- Dan Burk, *Intellectual Property Issues in Electronic Collaboration, in ELECTRONIC COLLABORATION IN SCIENCE: PROGRESS IN NEUROINFORMATICS, VOL.2* (S. Koslow & M. Huerta eds., forthcoming 2000).
- Dan Burk, *Muddy Rules for Cyberspace*, 21 CARDOZO L. REV. 121 (1999).
- Dan Burk, *Virtual Exit in the Global Information Economy*, 73 CHI-KENT. L. REV. 143 (1999).
- Karen C. Burke, *Reassessing the Administration's Proposals for Reform of Subchapter K*, 84 TAX NOTES ___ (forthcoming 2000).
- Karen C. Burke, *Social Security Reform: Risks, Returns, and Race*, 9 CORNELL J. L. & PUB. POL'Y (forthcoming 2000) (with Dorothy A. Brown & Grayson M.P. McCouch).
- Karen C. Burke, *The Impact of Social Security Reform on Women's Economic Security*, 16 N.Y.L. SCH. J. HUM. RTS. (1999) (with Grayson M.P. McCouch).
- Karen C. Burke, *Perspectives on Social Security Reform* (book review), 4 FLA. TAX REV. 417 (1999) (with Grayson M.P. McCouch).
- Karen C. Burke, *Annual Report: Important Developments (S Corporations)*, 52 TAX LAW. 1179 (1999) (editor).
- Jim Chen, *The Death of Contra*, 51 STAN. L. REV. (forthcoming 2000) (with Daniel A. Farber) (writing as "Gil Grantmore").
- Jim Chen, *Mark My Words*, 3 GREEN BAG 2D 121 (2000) (with Daniel A. Farber) (writing as "Gil Grantmore").
- Jim Chen, *Globalization and Its Losers*, 9 MINN. J. GLOBAL TRADE 157 (2000).
- Jim Chen, *Hope a Better Rate for Me*, 17 YALE J. ON REG. 195 (2000).
- Jim Chen, *The Magnificent Seven, American Telephony's Deregulatory Shootout*, 50 HASTINGS L.J. 1503 (forthcoming 1999).
- Jim Chen, *The Sound of Legal Thunder: The Chaotic Consequences of Crushing Constitutional Butterflies*, 16 CONST. COMM. 483 (1999).
- Jim Chen, *Midnight in the Courtroom of Good and Evil*, 16 CONST. COMM. 499 (1999).
- Jim Chen, *The Second Coming of Smyth v. Ames*, 77 TEX. L. REV. 1535 (1999).
- Laura Cooper, *Researching Labor Arbitration and Alternative Dispute Resolution in Employment*, 91 L. LIBR. J. 367 (1999) (with Suzanne Thorpe).
- Daniel A. Farber, *The Death of Contra*, 51 STAN. L. REV. ___ (forthcoming 2000) (with Jim Chen writing as "Gil Grantmore").
- Daniel A. Farber, *Mark My Words*, 3 GREEN BAG 2D 121, (2000) (with Jim Chen writing as "Gil Grantmore").
- Daniel Farber, 16 CONST. COMM. 675 (1999) (reviewing Richard Posner, Daniel Farber, *The Problematics of Moral and Legal Theory*).
- Daniel Farber, 24 LAW & SOC. INQ. 751 (1999) (reviewing Feeley & Rubin, *Judicial Policymaking and the Adjudicatory State*).
- Daniel Farber, *Beyond All Criticism?*, 83 MINN. L. REV. 1735 (1999) (with Susanna Sherry).
- Daniel Farber, *Beyond the Formalism Debate: Expert Reasoning, Fuzzy Logic, and Complex Statutes*, 52 VAND. L. REV. 1243 (1999) (with Ed Adams).
- Daniel Farber, *Taking Slippage Seriously: Noncompliance and Creative Compliance in Environmental Law*, 23 HARV. ENV. L. REV. 297 (1999).
- Barry C. Feld, *A Funny Thing Happened on the Way to the Centenary: Social Structure, Race, and the Transformation of the Juvenile Court*, 1 PUNISHMENT & SOC'Y 187 (1999).

- Barry C. Feld, *The Transformation of the Juvenile Court Part II: Race, and the 'Crack Down' on Youth Crime*, 84 MINN. L. REV. 324 (1999).
- Barry C. Feld, *Juveniles' Waivers of Legal Rights: Confessions, Miranda, and the Right to Counsel*, in YOUTH ON TRIAL (Tom Grisso and Robert Schwartz, eds. 2000).
- Barry C. Feld, *Legislative Exclusion of Offenses from Juvenile Court Jurisdiction: A History and Critique*, in THE CHANGING BORDERS OF JUVENILE JUSTICE: WAIVER OF ADOLESCENTS TO THE CRIMINAL COURT (Jeffrey Fagan and Franklin E. Zimring, eds. 2000).
- Barry C. Feld, *Juveniles in the Adult System*, in MACMILLAN ENCYCLOPEDIA OF CRIME AND JUSTICE (forthcoming 2000).
- Barry C. Feld, *The Juvenile Court*, in HANDBOOK OF JUSTICE RESEARCH IN THE LAW (Joseph Sanders and V. Lee Hamilton, eds. 2000).
- Mary Louise Fellows, *A Matter of Prostitution: Becoming Respectable*, 74 N.Y.U. L. REV. 1220 (1999) (with Beverly Balos).
- Richard S. Frase, *France*, in: CRIMINAL PROCEDURE: A WORLDWIDE STUDY (Craig Bradley, ed. 1999).
- Philip P. Frickey, *Wisdom on Weber*, TULANE L. REV. (forthcoming 2000).
- Philip P. Frickey, *The Process of Common Law Adjudication*, COMMON LAW/Common Bond/Common Values (forthcoming 2000).
- Philip P. Frickey, *Revisiting the Revival of Theory in Statutory Interpretation: A Lecture in Honor of Irving Younger*, 84 MINN. L. REV. 199 (1999).
- Philip P. Frickey, *A Common Law for Our Age of Colonialism: The Judicial Divestiture of Indian Tribal Authority over Nonmembers*, 109 YALE L.J. 1 (1999).
- Philip P. Frickey, *An Overview of the Legal Status of Indigenous Tribes in the United States*, 59 HEIDELBERG J. INT. LAW 383 (1999).
- Daniel J. Gifford, *A Microsoft Dialogue*, 44 ANTITRUST BULL. 619 (1999) (with David McGowan).
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