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LAW ALUMNI NEWS



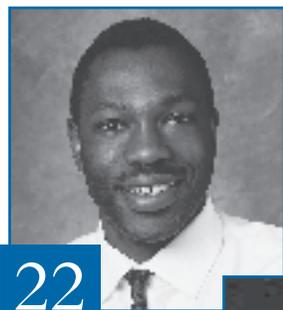
The Patriot, a 1984 acrylic by Carmen Cicero

UNIVERSITY OF MINNESOTA



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Cover photograph
 Through the generosity of West Group and its parent company Thomson Legal Publishing, the University of Minnesota Law School has acquired the country's finest collection of law-related contemporary American art. *The Patriot*, a 1984 acrylic by Carmen Cicero, is one of several pieces displayed in the Law School.

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LAW ALUMNI NEWS

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E. Thomas Sullivan, **DEAN**

Dean's Perspective

As you receive this spring issue of the *Law Alumni News*, we are preparing for a gala dedication on May 17 of the new addition to the Law School building. At its March meeting, the Board of Regents of the University of Minnesota unanimously approved the naming of the Law School building in honor of Walter F. Mondale. Former President Jimmy Carter will be with us on May 17th to recognize the great accomplishments of Vice President Mondale, and to lead us in our dedication ceremonies. We hope as many of our alumni as possible will be in attendance for this celebratory event in the history of the Law School.

Throughout this issue of the *Law Alumni News*, the recurring theme is the Law School's international connections. From the significant contributions made by Ambassador Walter Mondale, when he served as the United States Ambassador to Japan, to the many ways in which our alumni practice today in the global arena, we are reminded of the importance of our expanding world, whether in teaching law or practicing law.

As I have written before, the complexities of 21st century law, society, and technology place unprecedented demands upon our graduates. As we near the end of our successful Campaign Minnesota: The Law School's Next Century, we are confident that this Law School will be one of the first law schools in the country to fully achieve our aspirations of an integrated curriculum uniting theory and doctrine with skills and practice. Our students should be able to see our curriculum as a seamless web where theory, doctrine, ethics, and skills are woven throughout the curriculum in ways that permit students to excel in building analytical and communication skills for the practice of law in an interconnected world.

With the completion of the new addition to Mondale Hall, for the first time we will have the physical space and environment that will allow us to achieve our curriculum's goals with physical surroundings that are conducive to new technologies, new pedagogies, and expanded clinical and lawyering skills programs. This new state-of-the-art facility will permit us to increase our support of all students. Importantly, the design of the new completed facility will facilitate architecturally a more natural professional interaction between faculty and students throughout the building.

We look forward to having you with us for the historic celebration on May 17. I am confident that you will enjoy the activities of the day and our beautiful new environment.



Dean and William S. Pattee Professor of Law



Dean E. Thomas
Sullivan

Faculty News and Events

Bob Levy Retires

Since momentum and the idea of repose are by nature contradictory, it seems somehow antithetical to write a story of Robert Levy's retirement.

Professor Levy, who joined the faculty at Minnesota in 1959, has taught family law, divorce negotiations, criminal law and a criminal law sentencing workshop for visiting judges and students. In fact, he will continue to teach both the divorce negotiations and sentencing seminar next year, because "the dean and faculty would like those to continue, and also because we think the sentencing seminar is a very important part of the Criminal Justice Institute's activities." Levy also expressed "a great national need" for the workshop, and will be active in helping both Arizona State University Law School and Golden Gate Law School in San Francisco adopt the program.

The purpose of the seminar is to help practicing lawyers, students and judges consider alternative, non-prison sentences for defendants, which may include such things as community service, electronic monitoring, or even going to school. "The important thing, given the over-crowded conditions of our prisons, is to find punishments which will be recognized as punishment, deter others, that will deter the defendant from doing criminal acts again, and also to help the defendant become a more law-abiding citizen. The client-specific planners (who participate in the alternative sentencing process) are very skilled not only in finding these penalties, but in finding a mentor for the defendant during his time on probation. They're also very skilled at presenting the cases to judges so they will understand other choices instead of simply having a knee-jerk reaction and sentencing the person to prison. It's a very good seminar and students love it because they learn a lot," Levy said.

Professor Levy came to the University of Minnesota Law School as an antitrust lawyer, and he hoped to teach antitrust, even though there already was an antitrust professor on the faculty. "It turned out he left the same time the family law professor did, so the Dean said I could teach antitrust, but only if I taught family law as well so it started out to be a duty rather than something I would have chosen myself, but I got interested in it very quickly, and also in the clinical aspects of it. After my first year here, I was awarded a grant to start the first in-house clinical program, a broad, family-based law clinic which involved neglect, adoption and divorce cases, and I started an interviewing and counseling program. (Before



The Levy Family

(back row) Chuck Rennert, Val Rennert, Professor Bob Levy, Josh Levy, (front row) Emily Rennert, Jenna Rennert, Judge Roberta Levy, Jake Levy, Jon Levy, Beth Virnig and Zach Levy in the pouch.

1962, students who were not on law review were required to spend three days a week at the Legal Aid Society downtown.)

Professor Levy also remembers how much smaller the Law School was when he first arrived, with only seventeen faculty and 90 students. "The school is much larger, the building, faculty, student body, the number of activities. It has its consequences, if you measure state by state, the students are better, but it's a different experience working at a large institution. Back then everybody knew everybody else. It used to be that Dean Bill Lockhart could sit in his office and see each faculty member every day as he came and left. That would be impossible today, it's just different."

Professor Levy also is working on a book about the prosecution of child abuse cases. "Until I finish this book, I'll be working hard, I'm not going to be a couch potato," he said, "and I'm going to continue my work and try to expand the sentencing seminar to other schools. The whole purpose of it is to help judges reexamine their values about sentencing, and I think it's clear that some of them think differently after the seminar. I've seen evidence that it's making a difference in judges."

Professor Levy also plans on spending more leisure time with his wife, Judge Roberta Levy, their children and grandchildren. ■

David Bryden Retires

“In our family, there was no clear line between religion and fly fishing.”

—Norman Maclean
A River Runs Through It

With an impressive career that combined personal convictions and pastimes with academic scholarship, David Bryden is ready to retire after 35 years as professor at the University of Minnesota Law School. He is looking forward to more reading, writing, cooking and fly fishing.



David Bryden practicing for retirement.

Looking back on his long career at the Law School, Professor Bryden has enjoyed teaching an ever-changing body of students. “The school has become so much more international,” Bryden said, “if someone had told me in 1966 that I’d have a class with Asian, Turkish and German students, I would have been amazed.”

Professor Bryden, who drafted and then lobbied for the Minnesota Wild and Scenic Rivers Act, which is

the most restrictive state river preservation act in the country, spoke of his past involvement with the Sierra Club, “On many issues my prejudices are on the conservative side; on environmental issues they are on the liberal side...which isn’t to say that I think the environmentalists are always right. I’ve known environmentalists who make extreme, foolish proposals, but I think that by and large, it’s easier to find areas where we don’t regulate strictly enough than to find areas where we regulate too strictly. So my prejudices are with the Sierra Club. That’s affected by my fishing, of course, because trout streams are particularly vulnerable to development, and as soon as you find a nice one people start bringing in trail bikes and bulldozers and so on, so I’m very sensitive to that type of issue. In general I think the natural course of thinking is for the country to become one great big urban area and that we’re more likely to do harm by not preserving

beautiful areas than by preserving too many, because the latter kind of decision is always reversible and the former is not.” He added, “I don’t particularly like machines, and some people love them, so I’m inclined to zone.”

In 1983 Professor Bryden, along with Professor Daniel Farber, co-founded *Constitutional Commentary*, a faculty-edited journal of constitutional law. Professor Bryden said that he and a former Minnesota Law Professor, Allen Freeman, used to fantasize about a journal that would be less formal and less reverent than student-edited law reviews, which “As Professor Fred Rodell once said, have only two faults, the style and the content,” Bryden quipped.

During his career as a faculty member, Professor Bryden has taught Contracts, Torts, Constitutional Law, Expository Writing, Case Analysis, Criminal Law, a rape seminar and a course called Obligation to Life. He is currently working on a book about rape, which includes two articles he wrote on the subject and a third he is writing about the ideology of rape. He commented that there are a lot of studies and theories on the subject, some more valuable than others. “It’s a difficult topic, prejudice is extremely powerful in any field that people are emotional about,” Bryden said.

Besides his writing, Bryden looks forward to spending more time in the kitchen cooking pastas and stews. “It’s a nice hobby,” he said, “because unlike fishing, it’s not dependent on the weather. You have to eat anyway, so it has a practical aspect. It’s infinitely adjustable and variable to your level of ability and you don’t have to drive two and a half hours as you often do with fishing. I’m glad I found it.” ■

Faculty Scholarly Presentations

The Law School hosts a weekly luncheon presentation by members of the faculty, faculty from other departments of the University and visitors from other law schools. Listed below are the 2000–01 presentations:

Cyberliteracy: Navigating the Internet with Awareness

Professor Laura Gurak,
Department of Rhetoric,
University of Minnesota

Expressivist Jurisprudence and the Depletion of Meaning

Professor Steven Smith,
Notre Dame Law School

Science and the Statistical Victim: The Case of Silicone Gel Breast Implants

Professor Sheila Jasanoff,
Kennedy School of
Government, Harvard
University

Tribal-State Affairs: American States as “Disclaiming” Sovereigns

Professor David Wilkins,
American Indian Studies,
University of Minnesota

Comparing Pollution

Professor John Nagle,
Notre Dame Law School

Currencies and the Commodification of Environmental Law

Professor J.B. Ruhl,
Florida State University
College of Law

Toward An International Fair Use Doctrine

Professor Ruth Okediji,
University of Oklahoma
Law Center

Multidisciplinary Practice and the Future of the Legal Profession: Considering a Role for Independent Directors

Professor John Matheson,
University of Minnesota
Law School

Tobacco Punitive Damages: Engle’s \$145 Billion

Visiting **Professor
George Mundstock**,
University of Minnesota
Law School

Cambodia and Reconciliation

Professor Ben Kiernan,
Yale University

Proposed Draft Principles Relating to Human Rights Conduct by Companies

**Professor David
Weissbrodt**, University of
Minnesota Law School

The Ambidextrous Lawyer: Conflict of Interest and the Medieval Legal Profession

Professor Jonathan Rose,
Arizona State University

Social Meaning and School Vouchers

Professor Neal Devins,
College of William and
Mary, Marshall-Wythe
Law School

National Politics as International Process: The Case of Anti-Female-Genital-Cutting Laws

**Professor Elizabeth
Boyle**, Department of
Sociology, University of
Minnesota

Avoiding Constitutional Questions As a Three-Branch Problem

Professor William Kelley,
Notre Dame Law School



A County-Level Comparison of The Propensity to Sentence Felons to Prison

Professor Richard Frase
and **Robert Weidner**,
Institute on Criminal Justice,
University of Minnesota
Law School

Copyright Law and Price Discrimination

**Professor Michael
Meurer**, Boston University
School of Law

Rent Seeking and Risk Fixing in the New Statutory Law of Electronic Commerce: Some Difficulties in Moving Consumer Protection on Line

Professor Jean Braucher,
University of Arizona
College of Law

The Uncertain Prospects of, and Benefits From, Convergence in Corporate Governance

**Professor Brett
McDonnell**, University of
Minnesota Law School

What’s in a Name? Privacy, Property Rights and Free Expression in the New Communications Media

Professor Jane Kirtley,
School of Journalism,
University of Minnesota

Unions and Family Leave: Early Experience Under the Family and Medical Leave Act

Professor John Budd,
Carlson School of
Management, University of
Minnesota

All About Words, Early Understandings of the “Judicial Power” in Statutory Interpretation, 1776–1806

**Professor William
Eskridge, Jr.**, Yale
University School of Law

The Yahoo! Case and the International Democratization of the Internet

**Professor Joel
Reidenberg**, Fordham
University School of Law

**Professor Mahmood
Zaidi**, Carlson School of
Management, University of
Minnesota

Inventing Family Law

**Professor Ira Mark
Ellman**, Arizona State
University College of Law

How Race Matters: Racial and Political Identity in the Racial Redistricting Cases

Professor Guy Charles,
University of Minnesota
Law School ■



Pictured are: Patrick Schiltz, Associate Dean, St. Thomas University Law School; J. David Prince, Vice Dean, William Mitchell College of Law; Elliott S. Milstein, 2000 President of the Association of American Law Schools; Lucie E. White, Louis A Horvitz Professor, Harvard University School of Law was the Colloquia Featured Speaker; Edwin J. Butterfoss, Dean, Hamline University School of Law; and University of Minnesota Law School Dean, E. Thomas Sullivan.

Association of American Law Schools Equal Justice Colloquium

The Association of American Law Schools (AALS) sponsored colloquia at 19 law schools across the United States during the 2000–01 academic year. The University of Minnesota hosted one of the colloquia on Friday, November 10, 2000 in cooperation with the other three area law schools, Hamline University, William Mitchell, St. Thomas University, and the Minnesota Justice Foundation.

The Colloquium was designed for faculty, administrators, librarians, law students, legal services lawyers, public defenders, public interest lawyers, civil rights lawyers, pro bono lawyers advocates and others who were interested in increased access to justice by 1) creating and enhancing collaborations among faculty, students and legal service providers and 2) advancing teaching, service and scholarship by faculty and students in the areas of equal access to justice. ■

Mark Your Calendar

University of Minnesota
Homecoming

Saturday, October 20, 2001

Annual Continuing Legal Education Seminar
Invitations will be mailed in September

AALS Presentations

The Association of American Law Schools (AALS) Annual Meeting affords an international forum for law teachers, librarians, and law school administrators to discuss issues facing today's law schools. The theme of the 2001 Annual Meeting was "Pursuing Equal Justice." Listed below are the names of the members of the University of Minnesota Law School community who were honored with an invitation to present as a panelist and/or a moderator at the 2001 meeting:

Professor Laura Cooper

Alternative Resolution of Employment Discrimination Claims: American and Australian Experiences

Susan Curry

Law School Partnerships with Law Firms and Public Service Offices

Professor Daniel Farber

Association of American Law Schools and American Society of International Law Joint Workshop on Shifting Boundaries: Globalization and Its Discontents
Environmental Session

Professor Mary Louise Fellows

The Popular QTIP Marital Deduction: Sexism in Estate Planning?

Professor Joan Howland

Distance Education in Law Schools: Rhetoric vs. Reality; Passion vs. Practicality

Professor David McGowan

Understanding Antitrust in the 21st Century

Meredith McQuaid

Making the Right Connections: Developing Contacts for International Legal Exchange

Terri Mische

Media Relations: How to Attract Ink and Air

Professor John A. Powell

Workshop on Property, Wealth and Inequality
Education/Technology
Inequality Session



Participants enjoy good company and food at the **Annual Alumni Breakfast** held at the 2001

Association of American Law Schools Annual Meeting on Friday, January 5 in San Francisco, California.

Affiliated Faculty Drive Scholarship to the Intersection of History, Sociology and Law

After graduating from the University of Michigan Law School in 1983, Barbara Welke immediately went into private practice with the firm of Jenner & Block in Chicago. After a few years of white-collar criminal representation she decided she missed her earlier course of study—history—and decided to get her Ph.D. in U.S. Diplomatic History from the University of Chicago.

“After two years I decided I loved law and missed it, which led me to move into and write in the area of legal history,” Welke said. “I was interested in the role of gender and law and started looking in the field of torts and contracts law at the turn of the 20th century.” Welke soon realized that it was impossible to look at torts and contracts law during that period without reading about railroads, which dominated the cases during that period of time. Though she had not originally considered writing about railroads, she found it provided a unifying theme for her three areas of interest, including “important intersections of the individual and the state: with respect to the body, accidental injury, with respect to the mind, emotional injuries and shock, with respect to personhood, the development of separate but equal, or Jim Crow laws.”

She has written and published widely on the topic, including the articles “When All the Women Were White, and All the Blacks Were Men: Gender, Class, Race and the Road to Plessy, 1855–1914” (*Law and History Review*, 1995) and a forth-



Robin Stryker



Barbara Welke

coming book called *Recasting American Liberty: Gender, Race, Law and the Railroad Revolution, 1865–1920* (Cambridge University Press, Fall 2001). Currently, Welke holds a McKnight Land-Grant Professorship at the University of Minnesota in the Department of History. She hopes to teach a graduate seminar in the future so that law students will be able to enroll in her class.

Robin Stryker said, “It never really occurred to me to do anything else in life but be a sociology professor, but while I was studying sociology, I always was interested in inequality, labor markets and politics. When I started reading what sociologists and political scientists were writing about, it became clear that law was very important in shaping both. Yet what I read seemed to be quite abstract, general and quite

naïve.” She recognized an interest in the intersection between law and sociology and decided to attend law school. “I chose Yale because it is very social-science oriented; I wasn’t sure if I wanted to practice law or return to scholarship.” She did a summer clerkship and discovered she liked law “from the inside” much more than she thought she would, but after a time it became clear to her “that as long as I could do the kind of interdisciplinary scholarship I wanted to do and be employed that was what I would try, and happily it worked out very well.” While in a labor law class at Yale, a professor complained about the manner in which the National Labor Rela-

tions Board made decisions, and this piqued her interest enough to lead serendipitously to her interest and research for her dissertation, *Limits on Technocratization of the Law: The Elimination of the NLRB’s Division of Economic Research*. She earned her Ph.D. in Sociology from the University of Wisconsin and before coming to Minnesota she taught both sociology and law at the University of Iowa. Currently, she is a professor of sociology at the University of Minnesota. Stryker has written extensively, including a forthcoming book, *Law, Politics and Social Inequality*, co-authored with Mellisa Holtzman. She teaches in the areas of Law and Society and Political Sociology. ■



Faculty Experts Address *Bush vs. Gore* and the U. S. Supreme Court

On Tuesday, November 28, in the great tradition of legal debate, Professors Michael Stokes Paulsen, Guy Charles and Dale Carpenter offered comments and opinions during a panel discussion on issues relevant to the case brought by (then) Governor Bush before the Supreme Court, including the voting laws, constitutional laws and federalism issues presented by the parties. Dean Sullivan served as moderator.

Faculty Research and Development

Beverly Balos completed an article entitled “Teaching Prostitution Seriously,” that will be published in the *Buffalo Criminal Law Review*. She also completed the 2000 Supplement to the book *Law and Violence Against Women: Cases and Materials on Systems of Oppression* with coauthor Mary Louise Fellows. In November, Professor Balos participated in the Association of American Law Schools (AALS) sponsored Equal Access to Justice Conference held at the law school where she co-lead a discussion on battered women’s issues.

Stephen F. Befort has authored three publications concerning the Americans with Disabilities Act. The first is an article, coauthored by Tracey Holmes Donesky, entitled “Reassignment Under the Americans with Disabilities Act: Reasonable Accommodation, Affirmative Action, or Both?” This article will be published in the *Washington & Lee Law Review*. A second piece, entitled “ADA Presents an Unpredictable Landscape,” was published by *Minnesota Lawyer* as part of a special focus edition on employment law topics. The third article is entitled “Is Anyone Still Disabled Under the ADA?: A Review of Appellate Decisions Following the Sutton Trilogy.” This paper was published in *2000 Employment Law Handbook* and presented at both at the Upper Midwest Employment Law Institute in St. Paul and the Labor Law Institute in St. Louis. Professor Befort also prepared a 2000–2001 Supplement to his *Employment Law and Practice* book for West Publishing. Along with Sarah Link, he contributed an article on “WARN Act Developments” for the most recent issue of *Labor and Employment Law News*, a publication of the Minnesota State Bar Association (MSBA). In another MSBA project, Professor Befort is co-chair of a committee charged with constructing a new employment law web resource site. Professor Befort currently is serving as the Law School’s Associate Dean for Academic Affairs.

Elizabeth Heger Boyle researches international and comparative law from a sociological perspective. Over the past year, she published four articles. The first, “National Legislating as an International Process: The Case of Anti-Female-Genital-Cutting Laws,” with Sharon Preves, considers the tension between international pressure and local politics and was published in *The Law & Society Review*. In “Is Law the Rule? Using Political Frames to Explain Cross-National Variation in Legal Activity,” published 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 motivations involved. In her third article, “Gesture Without Motion? Poetry and Politics in Africa,” published 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. Finally, Professor Boyle published “Gender and Professional Purity: The Effect of Occupational Prestige on the Formal and Informal Work Rewards of Physicians in Estonia,” with Donald Barr in *Gender and Society*. That article examined the persistence of gender discrimination, even in a “gender

neutral,” bureaucracy. Professor Boyle also presented “International Norms and Individual Behavior: The Case of Female Genital Cutting” at the annual meetings of the American Sociological Association in Washington, D.C. in August, 2000. The presentation included the results of her NSF-funded research. Her article, “Modern Law as a Secularized and Global Model: Implications for the Sociology of Law,” with John W. Meyer, is scheduled to be reprinted this year as a chapter in *The Rule of Law in an International Context*, edited by Yves Dezalay and Bryant Garth, published by the University of Michigan Press.

Dan L. Burk continues an active program of scholarship in matters of intellectual property and high technology law. In November 2000, Professor Burk spoke at the symposium on “Copyright’s Balance in an Internet World” at the University of Dayton School of Law. During the annual conference of the American Association of Law Schools, he was elected Chair of the Section on Intellectual Property, and has begun planning the program for the January 2003 program in Atlanta. He spoke in February 2001 at the University of Northern Kentucky on “Anti-Circumvention Misuse” at a symposium on “Issues Affecting the Internet and Its Governance.” During February Professor Burk also spoke at a symposium on “Consumers in the Digital Age” sponsored by the University of California Hastings College of Law, and presented his paper “Patenting Speech” at faculty workshops at Washington & Lee University and Arizona State University. During his visit to Arizona State, Professor Burk also spoke to the Law and Science Student Association on “Lex Genetica: Governing through Biological Code.” His article on “Copyrightable Functions and Patentable Speech” appeared in a special February 2001 issue of *Communications of the ACM* devoted to “Intellectual Property in an Information Age.” Professor Burk has in preparation or in press several additional articles dealing with subjects including regulation of digital content management systems, control of genetic data, and divergence of patentability standards for biotechnology and computer software.

Jim Chen was named the Julius E. Davis Professor of Law for the 2000–2001 academic year. He taught as a visiting professor at the Slovak Agricultural University in Nitra (Slovenská Pol’nohospodárska Univerzita v Nitre). During his stay in Europe, he participated in the 2000 meeting of the European Association of Law and Economics in Ghent, Belgium, where he presented “Standing in the Shadows of Giants: The Role of Intergenerational Equity in Telecommunications Reform.” That paper, which concerns universal service and stranded cost recovery under the Telecommunications Act of 1996, was published in the *University of Colorado Law Review*. His article, “Globalization and Its Losers,” became the subject of a symposium in the *Minnesota Journal of Global Trade*. That journal also published Professor Chen’s reply to his critics, “Epiphytic Economics and the Politics of Place.” Drawing on his experiences in Europe during the fall of

2000, he completed his trilogy of articles on globalization by publishing "Pax Mercatoria: Globalization as a Second Chance at 'Peace for Our Time'" in the *Fordham International Law Journal*. In recent months he has completed three other articles: "Diversity and Deadlock: Transcending Conventional Wisdom on the Relationship Between Biological Diversity and Intellectual Property," for the *Environmental Law Reporter*, "The Authority to Regulate Broadband Internet Access over Cable" for the *Berkeley Technology Law Journal*, and "Rational Basis Revue," for *Constitutional Commentary*. Professor Chen has presented his work on broadband and biodiversity at the University of Washington, the College of William and Mary, and the University of California at Berkeley. He also participated in a conference at Stanford University on the policy implications of the "end-to-end" architecture of the Internet and in the University of Minnesota's conference on the regulation of genetically modified organisms.

Carol Chomsky completed work on her article entitled "Unlocking the Mysteries of *Holy Trinity*: Spirit, Letter, and History in Statutory Interpretation," which appeared in the *Columbia Law Review*. With Professor Maury Landsman, she wrote an article entitled "Introducing Negotiation and



Carol Chomsky

Drafting into the Contracts Classroom," which appeared in a symposium issue of the *St. Louis University Law Journal* focused on the teaching of contracts. The article was based on their collaboration preparing and teaching a negotiation and drafting simulation problem as part of Professor Chomsky's Contracts class. She also published a memorial tribute to the judge for whom she clerked, the Honorable Spottswood W. Robinson, III,

which appeared in the *Harvard Black Letter Law Journal* in 1999. She is currently working with Professor Christina Kunz of William Mitchell Law School to write a new textbook for Commercial Transactions/Sales, which will be submitted to publishers in March 2001. As part of *For the Record: 150 Years of Law & Lawyers in Minnesota*, published by the Minnesota State Bar Association in 1999, she wrote "The Dakota Conflict War Trials" and, with Cheryl Thomas and Terri Stoneburner, "Women in the Profession: Full and Equal Participation." She also presented her paper, "The Hamantash and the Foundations of Modern Legal Analysis," as part of the 2nd annual Latke-Hamantashen Debate at the University of Minnesota, March 13, 2000. Professor Chomsky continues as Coordinator for the University's Bush Early Career Faculty Program: Pursuing Teaching Excellence in a Multicultural University, and serves as Co-President of the Society of American Law Teachers.

Brad Clary published *Advocacy on Appeal* with co-authors Sharon Reich Paulsen and Michael Vanselow. The same authoring team is working on a handbook on Depositions for West Group. Professor Clary continues to work as site chair on the upcoming national conference that will be sponsored by the University of Minnesota, the Association of Legal Writing Directors, and West Group on the subject of integrating doctrine, skills and legal writing across the law school curriculum. In December, he gave a presentation on "Busting Baby Food," a look at the Federal Trade Commission antitrust case against the Heinz proposed merger with Beech-Nut, to the Minnesota State Bar Association antitrust and health law sections.

Barry Feld spoke at the Cleveland-Marshall College of Law Criminal Justice Forum on February 22, 2001 on the topic "Race, 'Get Tough' Politics, and the Transformation of the Juvenile Court." Professor Feld gave the following three presentations during fall semester: "The Back-Door to Prison: Waiver Reform, 'Blended Sentences,' and the Law of Unintended Consequences," to the American Society of Criminology in San Francisco, California on November 15, 2000; "Race and the Jurisprudence of Juvenile Justice: A Tale in Two Parts, 1950-2000," at the John D. and Catherine T. MacArthur Foundation in Chicago on October 12, 2000; and "Race and the Changing Jurisprudence of Waiver," on December 14, 2000, at the Office of Juvenile Justice and Delinquency Prevention's National Conference of Juvenile Justice in Washington, D.C. In addition, he has been quoted extensively in local and national media in stories about juvenile and criminal justice.

Richard S. Frase presented two papers at the 2000 Annual Meeting of the American Society of Criminology. One paper compares sentencing laws and practices in Germany and the United States, with emphasis on Germany's much more frequent use of non-custodial sanctions in the sentencing of non-violent offenses. The other paper, co-authored with criminologist Robert Weidner of the Law School's Institute on Criminal Justice, examines variations in felony sentencing among American counties. In September, Professor Frase filed an amicus curiae brief in the United States Supreme Court, in the case of *Atwater et al. v. City of Lago Vista, et al.* (argued December 4, 2000). The case involves a Texas woman who was arrested, handcuffed, and taken to jail for not wearing a seat belt. Although the maximum penalty for this violation is a \$50 fine, Texas law gives police officers discretion either to issue a traffic ticket or to effect a custodial arrest. The constitutional issue presented to the Court is whether a full-custody arrest for a fine-only offense, where the offender's identity and home address are well-established and there is no other legitimate need for custody, constitutes an unreasonable seizure under the Fourth Amendment. The broader issues involved include the potential for discriminatory enforcement, and the impact which such unnecessary arrests have on the already over-burdened resources of local

jails. Problems of jail overcrowding are one of the issues which have recently been addressed by the Law School's Institute on Criminal Justice. The amicus brief was filed on behalf of the Institute and eleven leading experts on law enforcement, corrections administration, and criminal justice policy. In early December, 2000, Professor Frase made a presentation on Sentencing Guidelines in Minnesota and other states to the newly-appointed Alabama Sentencing Commission. Also in December, the 2000 Supplement to Professor Frase's book, *Minnesota Misdemeanors and Moving Traffic Violations*, co-authored with Martin J. Costello & Stephen M. Simon, was published by Lexis Law Publishers. In March, 2001, Oxford University Press published Professor Frase's book, jointly edited with Professor Michael Tonry, *Sentencing and Sanctions in Western Countries*. This book contains edited versions of papers presented at an international conference on sentencing, which Professors Frase and Tonry hosted at the Law School in 1998. The book includes a chapter by Professor Frase entitled "International Perspectives on Sentencing Policy and Research." This essay identifies major similarities and differences in sentencing purposes, procedures, alternatives, and practices in Western countries, along with common trends in these countries. The similarities and common trends make the remaining differences (e.g., other countries' wider use of intermediate sanctions) all the more instructive, comparative research, and reform "borrowing," are becoming more feasible, as systems become more similar.

Daniel J. Gifford and Professor Robert Kudrle presented their paper, "Alternative National Merger Standards and the Prospects for International Cooperation," at an international Trade Conference held at the University of Minnesota in honor of Professor Robert Hudec last September. They



Daniel J. Gifford

had presented an earlier version of that paper at Fudan University in Shanghai in June. Professor Gifford's article "Innovation and Creativity in the Fine Arts: The Relevance and Irrelevance of Copyright," is pending publication in the *Cardozo Arts and Entertainment Law Journal*. His article "Why does a Conservative Court Rule in Favor of a Liberal Government? The Cohen-Spitzer Analysis and the Constitutional Scheme," is

awaiting publication in the *Florida State University Law Review*. Professor Gifford and Professor David McGowan have written a second article on the Microsoft litigation, "A Microsoft Prologue." This article will appear in a special publication by the *Antitrust Bulletin*, focusing on that litigation. Professor Gifford is also presenting a paper on monopolization at a conference in Columbus, Ohio in the spring.

Joan S. Howland moderated a program entitled "Distance Education in the Law School Environment: Vision vs. Reality, Passion vs. Practicality" at the American Association of Law School (AALS) Annual Meeting in January, 2001. Professor Howland recently completed a term as Chair of the AALS Committee on Libraries and Technology, and has been appointed to serve on the AALS Nominating Committee. Professor Howland will speak at the joint conference of the Southeastern Association of Law Libraries and Southwestern Association of Law Libraries in April on the topic "Leaders as Problem Solvers." She will speak on a program entitled "The Young and the Restless: What are the Realities of Professional Growth for New Academic Librarians" at the 2001 American Association of Law Libraries Annual Meeting. She also is coordinating and speaking on the 2001 American Library Association Annual Conference program, "Mentoring: An Opportunity for Building a Strong, Dynamic, Evolving and Diverse Library Profession." Professor Howland will serve as a delegate from the American Indian Library Association to the Second International Indigenous Librarians Forum to be hosted by the Sami community in Sweden in September. She has been asked to serve on the American Bar Association Section of Legal Education and Admissions to the Bar Committee on Accreditation. Professor Howland recently published an article entitled "Transforming Law Libraries to Meet the Challenges of the 21st Century" in *Trends in Law Library Management and Technology*. She published an article entitled "Challenges of Working in a Multi-Cultural Environment" in the *Journal of Library Administration*. She also has a forthcoming article "Technological Access and Equality in Indian Country" which will appear in *Library Journal*.

Sally J. Kenney began work on two new projects. The first, is a comparative study of how the gender of judges becomes a political issue. She presented a paper entitled "Breaking the Silence: Gender Mainstreaming and the European," at a conference on Gender Mainstreaming at the University of Wisconsin, Madison. The paper analyzes the processes leading to the appointment of the first woman judge on the European Court of Justice. Professor Kenney spent the summer conducting interviews and exploring the archives of the Minnesota Historical Society researching the appointment of Rosalie Wahl to the Minnesota Supreme Court in 1977. She secured funding for and lead an interdisciplinary institute of scholars, activists, and extension educators to produce teaching case studies of feminist organizations during the summer of 2000. The eight cases are now in production to be posted on the worldwide web. Professor Kenney presented the results of this project at the annual meeting of the Sociologists for Women and Society in February, 2001. Her analysis of the shortcomings of existing cases and assessment of the case teaching method resulted in two articles, "Using the Master's Tools to Dismantle the Master's House: Can We Harness the Virtues of Case Teaching?" forthcoming in the *Journal of Policy Analysis and Management*, "Where Are the Women in Public Policy Cases?" Under review for the inaugural issue of the *Harvard Journal of Women and Public Policy*. She completed her work on law clerks, publishing her NSF-funded research "Beyond Principals and Agents: Law Clerks at the European Court of Justice and U.S. Supreme Court Compared" in

Comparative Political Studies in June 2000. She also wrote an essay reviewing the scholarly literature on law clerks entitled “Puppeteers or Agents? What Lazarus’s Closed Chambers Adds to Our Understanding of Law Clerks,” *Law & Social Inquiry*, (2000). The Humphrey Institute faculty and Dean recently recommended that she be promoted to full professor.

Maury S. Landsman continues to serve as a consultant on judicial ethics for the Minnesota Office of Administrative Hearings, and as consultant on the ethics and elimination of bias curricula for Minnesota Continuing Legal Education (CLE). He is presently acting as a judicial ethics consultant on a project for the National Center for State Courts. Professor Landsman served as Coordinator for the Association of American Law Schools Equal Access to Justice Colloquium that was held on November 10, 2000 at the University of Minnesota Law School. He presented a draft of a paper, co-authored with Professor Steven McNeel of Bethel College, entitled “Moral Judgment and Preference for Public Interest Law Practice among Beginning Law Student” on July 7, 2000 at the 26th annual conference of the Association for Moral Education in Glasgow, Scotland. Professor Landsman participated with Professor Steve Simon in Judicial Trial Skills and Ethics training for Worker’s Compensation Judges at the Office of Administrative Hearings, June 29–30, 2000. He was a consultant and participant on the Minnesota CLE “Ethics and Elimination of Bias Seminar for In-house Counsel” on February 21, 2001. Professor Landsman also gave a number of CLE presentations on Ethics and Elimination of Bias including: “Ethics and Bias” at the First Judicial District Judges Meeting, in Burnsville, Minnesota on November 9, 2000; “Issues of Bias in Minnesota Law Firms Today” at the Minnesota State Bar Association Convention, Duluth, Minnesota on June 22, 2000; “Identifying and Eliminating Bias in the Legal System” at the University of Minnesota Law School Summer CLE on June 3, 2000; and “Ethics and Bias” on April 13, 2000 at the Anoka County Attorney’s Annual Ethics Seminar, in Anoka, Minnesota.

Robert J. Levy traveled to Otago University Law School in Dunedin, New Zealand in March to give a speech on “Extrajudicial Aids: A Divorce Adjudication.” Professor Levy is working on a book describing an empirical survey of child sexual abuse prosecutions and failures to prosecute. The first essay from the book is in press and will be published by the Bar Illam University Press. In addition, he has spent considerable time introducing his Sentencing Seminar to other law schools. The seminar will be adopted by Arizona State Law School next year and in other law schools around the country in the following year.

John H. Matheson presented a paper, “Not ‘If’ but ‘How’: Reflecting on the ABA Commission’s Recommendations on Multidisciplinary Practice,” at The Future of the Profession: A Symposium on Multidisciplinary Practice, sponsored by the *Minnesota Law Review* on February 26, 2000. The paper was published in the *Minnesota Law Review*. He published three other articles, “Multidisciplinary Practice and the Future of the Legal Profession: Considering a Role

for Independent Directors,” in the *Loyola University of Chicago Law Journal*, with co-author Peter Favorite; “A Statutory Model For Corporate Constituency Concerns,” in the *Emory Law Journal*, with co-author Edward S. Adams; and “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,” in the *Washington Law Review*, with co-author Raymond B. Eby. He also published annual supplements to *Corporation Law and Practice* and his *Business Law Deskbook*, Volumes 18, 19 and 20 of the Minnesota Practice Series, as well as an annual supplement to his *Publicly Traded Corporations Treatise*. Professor Matheson was named inaugural co-director of the Law School’s newly-formed Kommerstad Center for Business Law and Entrepreneurship, which will feature entrepreneurial grants for students interested in pursuing entrepreneurial careers, a Journal of Business Law and Entrepreneurship, a lecture series by leading business and legal authorities, and a Business Law Clinic. Professor Matheson continued to serve as Director of Continuing Legal Education Programs for the Law School, which this past year included the twentieth anniversary of Super Continuing Legal Education Week, March 27–April 1, 2000, The Twenty-First Annual Summer Program of Continuing Legal Education Seminars, May 30–June 9, 2000, and three additional one-day seminars, including a program in honor of Irving Younger.

Brett H. McDonnell joined the faculty in fall 2000 as an Associate Professor of Law. He completed work on a review of the book *Employees and Corporate Governance*, edited by Margaret M. Blair and Mark J. Roe. The review, entitled “The Curious Incident of the Workers in the Boardroom,” is forthcoming in the *Hofstra Law Review*. He published “ESOPs’ Failures: Fiduciary Duties When Managers of Employee-Owned Companies Vote to Entrench Themselves” in the *Columbia Business Law Review*. Professor McDonnell also worked on several papers for future law review publication, including “Corporate Constituency Statutes and Employee Governance” and “The Uncertain Prospects of, and Benefits from, Convergence in Corporate Governance.” He participated in a conference on Norms and Corporate Law held at the University of Pennsylvania Law School.

Miranda Oshige McGowan published two articles this year. The first, “Reconsidering the Americans with Disabilities Act,” has been published by the *Georgia Law Review* in the fall of 2000. In it, Professor McGowan argues that despite the firestorm of scholarly and press criticism it provoked, the portion of the Supreme Court’s 1999 decision in *Sutton v. United Air Lines* that defined what it means to have a disability harmonizes surprisingly well with the Americans with Disabilities Act’s (ADA) functional approach to defining disability. Professor McGowan explains, however, that the *Sutton* Court’s holding on what it means to be “regarded as” disabled eviscerates the ADA’s central purpose of dismantling attitudinal barriers that prevent full and equal access to jobs for persons with physical and mental impairments. Professor McGowan recommends a new conception of what it means to be “regarded as” disabled that bars employers from relying



Miranda Oshige McGowan

on over broad and inaccurate stereotypes about physical and mental impairments, but at the same time allows employers a relatively free hand to devise job requirements, tests, and criteria. Her second article, "Property's Portrait of a Lady," grew out of Professor's McGowan's interest in law and literature. It will be published by the *Minnesota Law Review*. In it, she uses the lens of Henry James' *The Portrait of a Lady* to explore the conse-

quences of laws premised on the notion that property is valuable because it constitutes the self; and those that value property because it is essential to securing individual freedom. Finally, Professor Miranda McGowan continues her empirical research on issues related to affirmative action. She is currently writing an article that finds that the stereotype of Asian Americans as a "model minority," contrary to the view held by many legal scholars, does not create opposition to affirmative action for African Americans or resistance to greater governmental efforts to improve the status and condition of minority groups in the U.S. Surprisingly, in fact, people who view Asian Americans as a "model minority" tend to be more in favor of affirmative action and increased governmental intervention on behalf of minority groups.

Sharon Reich Paulsen co-chaired a seminar in October titled "Weathering Change in The Legal Profession," presented by the Women in the Legal Profession Committee of the Minnesota State Bar Association and Minnesota Continuing Legal Education. The seminar explored recent changes and trends in the legal profession and discussed their predicted effects on women and the consequent effects on the profession as a whole. On January 31, 2001, Dean Paulsen completed six years of service on the Lawyers Professional Responsibility Board. She also completed work on a book, *Advocacy on Appeal*, published in October 2001, and is working on a deposition book scheduled for publication in October 2001. Dean Paulsen's co-authors on both books are Bradley G. Clary and Michael J. Vanselow.

C. Ford Runge, Distinguished McKnight University Professor of Applied Economics and Law, spent 2000 working under a Ford Foundation grant on the impacts of genetically modified food and the international trading system with colleagues at Minnesota and the International Food Policy Research Institute (IFPRI) in Washington, D.C. He is also organizing a study group on genetically modified organisms and trade at the Council on Foreign Relations in New York. He recently completed a manuscript for the 21st Century Commission on U.S. Foreign Economic Policy in a Globalized Economy at Washington's Center for Strategic and International Studies (CSIS). The paper was titled "A Global Environment Organization and the World Trading System: Prospects and Problems."

Stephen Simon taught the Misdemeanor Prosecution and Defense Clinics during the fall semester of 2000. One of the interesting cases handled by the defense clinic involved the issue of the applicability of a mental illness defense to a probation revocation proceeding. He conducted Judicial Trial Skills Training Programs at the Law School for newly appointed Minnesota trial judges in September, October and December. The Minnesota Supreme Court Office of Continuing Education for State Court Personnel contracts with the Law School to conduct this program. It is mandatory for all newly appointed and or elected trial level judges in Minnesota. Professor Simon, with Judge James Morrow, conducted an evidence course for Minnesota administrative law judges in October of 2000. He also conducted a Judicial Trial Skills Program for the National Judicial College in October. The Judicial Trial Skills Program was part of the General Jurisdiction Course offered three times a year by the National Judicial College for new judges from throughout the United States. In December 2000, Professor Simon presented four different but related programs on conducting *Pro Se* civil and criminal trials to the annual Hawaiian Judiciary education conference. Professor Simon, along with James Cleary and Dan Storkamp, is completing a research project on DWI recidivism and time to adjudication. This project is being funded by the Insurance Institute for Highway Safety. The data and analysis from this project have been and are currently being used extensively by the Minnesota legislature in its consideration of the policy issues and custody resource needs that would be generated by the adoption of a felony DWI Law. Professor Simon continues to direct the Minnesota Criminal Justice System DWI Task Force. He founded the Task Force in 1982. It was funded by the University for two years and subsequent funding was provided by the Minnesota Department of Public Safety for 7 years. The Task Force is made up of judges, prosecutors, police officers, assistant attorney generals, drivers license administrators, probation officers, and citizen advocacy groups. The Law School provides meeting space and minimal administrative support for the Task Force. The Task Force has identified and recommended to the legislature many innovative DWI legislative concepts including administrative based plate impoundment and vehicle forfeiture, intensive probation programs, and criminalizing implied consent test refusal. These laws have become models for the rest of the country. The Task Force has done extensive research in several areas including the involvement of repeat offenders in alcohol related fatalities, criminal justice system alcohol related costs, and rural alcohol related fatalities.

Robin Stryker researches American regulatory law and comparative welfare state law and politics from a sociological perspective. She maintains a longstanding scholarly interest and research project on the politics of social science in American regulatory law. She has shown how politics shape the use of economics and other social sciences in labor law and antitrust law. Currently she is working on the politics of social science in equal employment law. Among her recent publications in the equal employment area are "Political Culture Wars 1960s Style: Equal Employment-Affirmative Action

Law and the Philadelphia Plan,” with Nicholas Pedriana, in the *American Journal of Sociology*; “Political-Culture Wars 1990s Style: The Drum Beat of Quotas in Media Coverage of Debate on the 1990–91 Civil Rights Acts,” with Martha Scarpellino and Mellisa Holtzman, in *Research in Social Stratification and Mobility*; and “Disparate Impact and the Quota Debates: Law, Sociology and Equal Employment Policies” in *Sociological Quarterly*. She also is writing a book, titled *Law, Politics and Social Inequality*. In this book, she provides what she calls a “rule-resource” framework for understanding the instrumental, normative and constitutive roles played by law and legal institutions in reproducing or mitigating class, race, gender and other social and economic inequalities. She applies the framework to illuminate specific topics, including law and business, law and the labor movement, law and the labor market, law and the constitution of the polity, law and social transformation, and law and globalization. In fall, 2000, Stryker spoke at the Max Planck Institute for the Study of Societies, in Cologne, Germany, where she was a resident scholar for a month. Among her recent professional contributions and honors, in 1999–2000, she was Chair of the Sociology of Law Section of the American Sociological Association. In 2000–2001, she was President of the international, interdisciplinary Society for the Advancement of Socio-Economics (SASE). She has been awarded a Jean Monnet Fellowship for research to be conducted in 2001–02 while in residence at the European University Institute’s Robert Schumann Center, in Florence, Italy.

E. Thomas Sullivan chaired the reinspection accreditation team that visited Stanford University Law School on March 4–7, 2001. He published “Decanal Leadership: Managing Relationships,” in *University of Toledo Law Review* (symposium issue); and his “Harmonizing Global Merger Standards” will be published in a book in honor of Professor Robert Hudec, entitled *The Political Economy of International Trade Law* to be published by Cambridge University Press in 2001. He recently was appointed by Minnesota Attorney General Mike Hatch to the Board of Directors of the Minnesota Partnership for Action Against Tobacco.

Michael Tonry has had a half dozen articles published since the beginning of the 2000–2001 academic year. Two books now in production, *Penal Reform in Overcrowded Times* (Oxford University Press, 2001, forthcoming) and *Crime and Justice*, (University of Chicago Press, 2001, forthcoming), should appear by mid-2001. He is a member of the UK Commission on Social Science, a body sponsored by British foundations and government agencies, which is taking stock of the state of British social science. He is also a member of the Home Office Panel on Review of the Sentencing System which is expected to propose a major overhaul of English sentencing and punishment systems. Professor Tonry has organized a number of book projects and conferences on cross-national topics. With support from the Annie E. Casey Foundation and collaborating with Professor Anthony Doob of the University of Toronto, he has organized a program on comparative juvenile justice for which papers have been commissioned on experiences in 10 countries and for which a conference will be convened in Cambridge in June 2001.

In a similar project looking at crime and punishment trends in ten countries over the past twenty years, Tonry (in collaboration this time with Professor David Farrington of Cambridge), and with support from the US Bureau of Justice Statistics, convened a conference in Cambridge in September 2000; a similar conference will convene in Cambridge in June 2001. Both of these projects will culminate in the publication of thematic volumes of *Crime and Justice*. He is convener of the Home-Office sponsored Sentencing Policy Study Group, which held its first meeting in Cambridge in October 2000 and will meet periodically over the next few years. This project is patterned on the Executive Sessions on Sentencing and Corrections which Tonry organized at the University of Minnesota and which took place between 1997 and 2000.

David Wilkins received a Fulbright Distinguished Chair Fellowship that will take him and his family to the University of Calgary for the 2001–02 fall semester. The title of the position is University of Calgary Chair in North American Studies. Professor Wilkins was on a panel, “Exploring the Legacy & Future of Black/Indian Relations,” as part of the 57th Annual Session of the National Congress of American Indians held November 14, 2000 in St. Paul, Minnesota. He gave a keynote presentation titled “Pleasures and Pains of Being a Professor and Barriers to Overcome,” at the Seventh Annual Institute on Teaching and Mentoring, October 26, 2000, in Orlando, Florida. His book, co-authored with Tsianina Lomawaima, titled *Uneven Ground: American Indian Sovereignty and Federal Law* will be published this fall by the University of Oklahoma Press. Another book, *American Indian Politics and the American Political System* will also be published this fall by Rowman and Littlefield. Professor Wilkins has written several articles recently. Three articles have been published: “A Constitutional Conundrum: The Resilience of Tribal Sovereignty During American Nationalism and Expansion, 1810–1871,” in *Oklahoma State University Law Review*; “An Inquiry Into Indigenous Political Participation: Implications for Tribal Sovereignty” in *Kansas Journal of Law & Public Policy*; and “The Reinvigoration of the Doctrine of Implied Repeals: A Requiem for Indigenous Treaty Rights,” in *American Journal of Legal History*. Two additional articles will be published this year, “Governance Within the Navajo Nation: Have Democratic Traditions Taken Hold,” in *Wicazo Sa Review* and “The Manipulation of Indigenous Status: The Federal Government as Shape-Shifter,” in *Stanford Law & Policy Review*.

Susan M. Wolf delivered her inaugural lecture as the Faegre & Benson Professor of Law on “Law and Genetics: Tangled in the Double Helix.” She was also appointed a Professor of Medicine in the University’s Medical School. Professor Wolf lectured at Johns Hopkins University on genetics and the law, at the annual meeting of the American Society for Bioethics and Humanities on maternal-fetal surgery, for the Minnesota Department of Human Rights on genetic discrimination, and at a MNBio meeting on the two University programs she directs, the Joint Degree Program in Law, Health & the Life Sciences and the Consortium on Law and Values in Health, Environment & the Life Sciences. Those two pro-

grams co-sponsored the 2000–01 Faegre & Benson Lecture Series on Law, Health & the Life Sciences featuring three outside lecturers this year on environmental, agricultural, and biotechnology issues. The programs also co-sponsored a February conference on “Governing GMOs (Genetically Modified Organisms): Developing Policy in the Face of Scientific and Public Debate.” That conference was further sponsored by the College of Agricultural, Environmental, and Food Sciences as part of the President’s Sesquicentennial Conference Series. Professor Wolf is writing on reproductive technologies, maternal-fetal surgery, bioethics consultation, and related topics. She is also collaborating with Professor Jeff Kahn of the University’s Center for Bioethics on a two-year project on genetic testing and disability insurance, funded by the National Human Genome Research Institute. In the coming months she will be lecturing at Harvard on law and genetics, at the University of Texas Southwestern Medical Center on genetic privacy and discrimination, and at a conference on physician-assisted suicide co-sponsored by the University of Minnesota’s Center for Bioethics.

Judith T. Younger was interviewed on Channel 5 on November 29, 2000 on the subject of “Parental Responsibility



Judith T. Younger

Laws.” She was interviewed as well by *Minnesota Magazine* for an article on wills, trusts, and estate planning. The article appears in the January–February 2001 issue of the magazine. She is currently at work on a CLE tentatively titled “Providing For Our Pets” and another on post-divorce visitation for infants and young children; this is to be delivered orally and published in September. ■



Professor Susan K. Wolf

The Faegre & Benson Professorship in Law

Professor Susan Wolf delivered her inaugural lecture entitled “Law and Genetics: Tangled in the Double Helix” on November 9, 2000. She is a Professor of Medicine in the Medical School and a Faculty Member in the University’s Center for Bioethics. She teaches in the areas of health law and bioethics. Professor Wolf is the Director of the University’s Joint Degree Program in Law, Health & the Life Sciences, and chair of the University’s Consortium on Law and Values in Health, Environment & the Life Sciences. Professor Wolf and Dean Sullivan are pictured above with Ken Liebman (left) and Jim Stephenson (right) from Faegre & Benson law firm.

Law Library Ranked 4th by *The National Jurist Magazine*

The Law School’s library was ranked recently 4th in the country by The National Jurist magazine.

In the new 2000–01 quality ranking of United States law schools, the University of Chicago’s Journal of Legal Studies’ survey concluded that the Law School ranked as follows:

| Category | Rank | Category | Rank |
|--|------|------------------------------------|------|
| Overall Education Quality <i>(same as last year)</i> | 17 | Scholarly Impact | 14 |
| Faculty Quality <i>(subjective and objective factors)</i> | 16 | Productivity on Books and Articles | 9 |
| Faculty Quality <i>(objective factors only)</i> | 11 | Productivity on Books | 4 |
| | | Productivity on Articles | 19 |
| | | Student Body Quality | 18 |

Faculty Publications

Bradley G. Clary and Sharon Reich Paulsen

Books

ADVOCACY ON APPEAL (2001) (with Michael Vanselow)

This is a versatile and practical appellate advocacy handbook, for first-year students, upper-level students, and practicing lawyers. It is a compact how-to text, and additionally contains examples, exercises, appellate brief excerpts, and a mock record for classroom, CLE, and in-house training use. An accompanying Teacher's Manual includes a memorandum for instructors, and other materials.

Beverly Balos

Articles

Teaching Prostitution Seriously, __ BUFF. CRIM. L. REV. __ (forthcoming 2001).

This article examines what students learn about prostitution in criminal law courses by reviewing the treatment of prostitution in three criminal law casebooks currently in use in law schools and the teachers' manuals that accompany them. While feminist legal theory has influenced the treatment of rape and domestic violence in the casebooks, the stereotypical treatment of prostitution remains virtually unchanged. The purpose of the article is to build on earlier feminist efforts to encourage criminal law teachers and casebook authors to recognize the gendered implications of the pervasive stereotypes that dominate the law's treatment of prostitution, to unmask the assumptions about its naturalness and inevitability, and to take the law of prostitution seriously and consider how prostitution implicates a broad range of criminal justice issues.

Stephen F. Befort

Articles

Reassignment Under the Americans with Disabilities Act: Reasonable Accommodation, Affirmative Action, or Both?, 57 WASH. & LEE L. REV. 1 (forthcoming 2001).

This article focuses on two issues currently dividing the federal courts concerning the scope of an employer's duty to reassign disabled individuals under the ADA. The debate concerns whether the ADA compels an employer to reassign disabled individuals to a different employment position when doing so would either trump the rights of other better-qualified workers or require an employer to deviate from facially neutral assignment and transfer policies. The appropriate resolution of these issues draws into question the extent to which the ADA mandates preferential treatment for the disabled. In this vein, the article considers whether the reassignment accommodation is a form of affirmative action and, if so, whether prefer-

ential treatment is somehow more defensible under the ADA than in the contexts of race or gender. The article concludes that the notions of reasonable accommodation and affirmative action are sufficiently different to warrant the recognition of predictable, policy-based guidelines for the scope of the reassignment obligation unencumbered by the rhetoric of the affirmative action debate.

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

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 L. Burk

Articles

Patenting Speech, 79 TEXAS L. REV. 100 (2000).

Recent cases holding that computer software code is protected speech entail disturbing implications for the law of intellectual property. Software blends expression and function in a manner that fits poorly within the jurisprudence of free speech, as it has fit poorly within the jurisprudence of copyright law. But software is also patentable, and unlike copyright law, which has long been required to oblige the demands of the First Amendment, patent law contains no provisions to accommodate expressive works. This suggests that patent law may be required to develop doctrines such as fair use.

Jim Chen

Articles

Diversity and Deadlock: Transcending Conventional Wisdom on the Relationship Between Biological Diversity and Intellectual Property, 31 ENVTL. L. RPTR. (forthcoming 2001).

Intellectual property is alternately vilified as a threat to biological diversity and lauded as biodiversity's savior. It is nei-

ther. The failure to understand the relationship between intellectual property and biodiversity has kept the United States from ratifying the Convention on Biological Diversity and strengthened the developing world's resistance to the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property. A world where habitat destruction, alien invasive species, and global warming continue to take their environmental toll can ill afford this deadlock over the leading international charters of biodiversity conservation and commercial development of scarce genetic resources.

The Authority to Regulate Broadband Internet Access over Cable, 16 BERKELEY TECH. L.J. (forthcoming 2001).

What, in the eyes of the law, is cable broadband? The regulation of cable-based platforms for high-speed access to the Internet has become the most controversial subject in communications law. A trilogy of judicial decisions on the statutory status of cable broadband has forced the Federal Communications Commission to resolve a question it has consistently dodged. This article concludes that the Commission has the power, exclusive of state and local governments, to require the operators of cable broadband facilities to offer their customers a choice of Internet service providers.

Pax Mercatoria: Globalization as a Second Chance at "Peace for Our Time," 24 FORDHAM INT'L L.J. (forthcoming 2001).

The conventional case for free trade rides on essentially one argument. That argument, however, is exceedingly powerful: Trade promotes a profitable division of labor, enhances the gross domestic product of all nations, and facilitates higher standards of living across the globe. Globalization's opponents nevertheless enjoy a rhetorical edge over supporters of international economic integration. This article therefore develops the oldest and most persuasive noneconomic justification for trade: the peace dividend that befalls a prosperous international community committed to the free movement of persons, goods, and ideas.

Epiphytic Economics and the Politics of Place, 10 MINN. J. GLOBAL TRADE 1 (2001).

Nature over nurture, leisure over labor. Trade disputes should privilege environmental claims over cultural concerns, which in turn should enjoy priority over the interest of nations in full employment. First World agrarianism's contrary approach to the problems of globalization bodes ill for the law of international trade. This preference for a putatively underemployed segment of the world's richest countries may be the most toxic contribution of Western culture to international economic law. Globalization is a class struggle, as all life is a class struggle. A postcolonial world dedicated to development as a human right must reject the self-indulgent politics of place.

Rational Basis Revue, 17 CONST. COMMENTARY 447 (2001).

Poor Al Gore! The Supreme Court ended the longest election night in living memory by adopting an aggressive definition of equal protection in the context of voting. I seek to bridge

the shattered American political landscape with a musical interlude and a bit of comic relief.

Standing in the Shadows of Giants: The Role of Intergenerational Equity in Telecommunications Reform, 71 U. COLO. L. REV. 921 (2000).

Technological progress isn't everything; it's the only thing. Stranded cost recovery and expanded universal service support, however, adopt a backward-looking regulatory attitude that contradicts and undermines the deregulatory ambitions of the Telecommunications Act of 1996. The Bell system's legendary slogan echoes still: "One Policy, One System, Universal Service." Public utility law is dead; long live public utility law. Stranded cost and universal policy should be analyzed as explicit wealth transfers across generational lines. In telecommunications regulation as in environmental protection, it should be the "continuing policy of the Federal Government...[to] fulfill the social, economic, and other requirements of present and future generations."

Carol Chomsky

Articles

Unlocking the Mysteries of Holy Trinity: Spirit, Letter, and History in Statutory Interpretation, 100 COLUMBIA LAW REVIEW 901 (2000).

In 1892, the Supreme Court construed the Alien Contract Labor Act of 1885, which barred importation of "any alien" under contract to perform "labor or service of any kind," as not prohibiting a New York church from hiring a British pastor to occupy its vacant pulpit. "[A] thing may be within the letter of the statute and yet not within the statute because not within its spirit, nor within the intention of its makers," wrote Justice David Brewer in *Holy Trinity Church v. United States*. Brewer's opinion—a staple of law school courses on legislation—is a touchstone for those seeking to overcome plain statutory language but is condemned by those who disapprove of using legislative history and who challenge Brewer's understanding of Congress's intent. The article presents a complete history of the case and statute, revealing that the Court was correct in its judgment and that *Holy Trinity* demonstrates the soundness of relying on legislative history to construe statutes properly.

Carol Chomsky and Maury Landsman

Introducing Negotiation and Drafting into the Contracts Classroom, 44 ST. LOUIS U.L.J. 1545 (2000).

It is by now almost a commonplace to say that the first year of law school should include skills-focused learning in addition to the massive doses of legal doctrine and analysis that form the core of the first year curriculum. Using a simple contracts-based exercise, the authors gave students in Professor Chomsky's first year contracts class an opportunity to experience a negotiation session and to attempt to reduce their agreement to written contract clauses. Using the students'

own reflections on the experience, the article reports on the lessons students learned about negotiating strategy, parameters, and dilemmas, and about drafting concerns and pitfalls. The exercise provided a hands-on learning opportunity to leaven the more usual focus on abstract concepts. As one student noted, the exercise also “helped me to re-connect with the real reason I wanted to be an attorney, which is to help people to solve their problems with minimum anxiety.”

Robert J. Levy

Books

Discretionary Prosecution of Child Sexual Abusers: Adolescent Victims, (forthcoming 2001).

This article, part of a larger project, reports and analyzes decisions during 1996 by Dade County, Florida, prosecutors not to prosecute cases involving sexual behavior by adults with girls between the ages of twelve and eighteen.

Brett H. McDonnell

Articles

ESOPs' Failures: Fiduciary Duties When Managers of Employee-Owned Companies Vote to Entrench Themselves, 2000 COLUM. BUS. L. REV. 199 (2000).

This article considers cases where managers who control the votes of an Employee Stock Ownership Plan have been accused of violating their fiduciary duty when they have directed the Plan to vote for themselves as directors of their company. It suggests that such votes alone do not violate a fiduciary duty; further evidence of conflicting interests must be shown.

Robin Stryker

Articles

Disparate Impact and the Quota Debates: Law, Labor Market Sociology and Equal Employment Policies, 42 SOCIOLOGICAL QUARTERLY 13 (2001)

This article brings sociological theory and research to bear on the “quota debates” dogging discussion of federal civil rights legislation in the early 1990s. The article highlights sociology’s role in shaping employment law and shows how apparently technical legal arguments about allocating burdens of proof affect labor market resource allocation among the classes, races, and genders. Contrasting institutional-sociological with liberal-legal concepts of discrimination, the article shows why disparate impact has been the most sociological approach to Title VII enforcement. It also shows how disparate impact—a theory and method for establishing legally cognizable employment discrimination injurious to women and minorities—is

and is not, related to affirmative action policy—a policy encompassing a broad range of procedures to provide positive consideration for members of groups discriminated against in the past. Finally, a competing incentives framework is used to show that, although disparate impact creates some incentives for employers to adopt quota hiring, such incentives are counter-balanced by major incentives working *against* race- and gender-based quotas. Major counter-incentives stem from disparate impact itself, from other aspects of equal employment law, and from organizational goals shaping business response to the legal environment. Consistent with these competing incentives, a detailed survey of all the empirical evidence available from research on labor markets and organizations strongly suggests that most employers do not rely on quota hiring.

Political Culture Wars 1990s Style: The Drum Beat of Quotas in Media Framing of the Civil Rights Act of 1991, 17 RESEARCH IN STRATIFICATION AND SOCIAL MOBILITY 33 (2000) (with Martha Scarpellino & Mellisa Holtzman).

Amid today’s clamor over affirmative action, a related debate over U.S. equal employment policies has receded from public view. Occasioned by a string of 1989 Supreme Court setbacks for civil rights enforcement, this early 1990s clash resulted in the Civil Rights Act of 1991. After providing necessary theoretical and historical background, this article provides systematic content analyses of commentary on debates over the Civil Rights Act of 1991 and its unsuccessful predecessor, the Civil Rights Restoration Act of 1990. We analyze commentary in two influential but ideologically opposed daily newspapers: the *New York Times* and the *Wall Street Journal*. We ask and answer the following questions. First, how are the act, its supporters and its opponents framed by these two influential newspapers? What similarities and differences emerge between the two newspapers? Second, is commentary in each newspaper equally likely to invoke sound-byte rhetoric emphasizing quotas? How do they do so and with what plausible affects? Third, what, if any, are the differences between the two newspapers in the degree to which their opinion column commentaries reflect a media-institutionalized balance norm? Notwithstanding complexity in both newspapers’ framing, quota rhetoric was so pervasive in them that public impressions of the 1990–91 civil rights debates could not help but be shaped by this potent sound byte. Importantly, quota rhetoric was even more prominent in the editorials of a politically liberal newspaper strongly *supportive* of the proposed civil rights legislation than it was in a politically conservative newspaper *opposed* to the proposed civil rights legislation. We offer an explanation for this finding, and all our other findings. Then we consider implications for current and future equal employment politics and policies. We argue that the offensive and defensive drum beat of quotas in media coverage of proposed legislation that had nothing directly to do with affirmative action reinforced, intensified and further generalized anti-affirmative action discourse and mobilization in both the public and government policy making arenas.

Legitimacy Processes as Institutional Politics: Implications for Theory and Research in the Sociology of Organizations, 17 SOCIOLOGY OF ORGANIZATIONS 179 (2000).

This article builds on my prior theory and research about how incorporating social science reasoning and expertise into law can be expected to affect the legitimacy of law. In an earlier article (*American Journal of Sociology*, 1994), I showed how scientific-technical and formal-legal rationalities could be conceptualized as competing rule-resource sets in law. I also showed how legitimacy processes stemming from the competition between formal-legal and scientific-technical rationalities has helped both stabilize and transform American law by shaping conflicts in and over American legal institutions. This article explicitly links the earlier arguments to ideas and research in organizational sociology. It shows that organizational politics are key to how an organization's internal and external environment inter-relate because *organizational* politics reflect and shape what new institutionalists call *institutional* politics. Because legitimacy processes as I have theorized them are the heart of institutional politics, their explication helps us understand how and why institutionalization creates both taken-for-granted assumptions about how the world (including the legal world) works, and interest and value based political conflicts rooted in these assumptions. It then is clear why legitimacy processes not only help explain institutionalization and stability, but also help explain deinstitutionalization and change in organizations and organizational populations and fields, including legal and political systems.

Legitimacy, INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL AND BEHAVIORAL SCIENCES, (Neil Smelser & Paul Baltes eds., forthcoming 2001).

Beginning with Weber's seminal treatment, the concept of legitimacy has been considered essential for understanding how legal and social order are maintained. Current approaches contain three themes: legitimacy as cognitive orientation to binding rules of the game for political and legal acts, authorities and institutions; legitimacy as attitudinal approval of those rules; and legitimacy as behavioral consent to those rules. Implicit in each definition is a different explanation—constitutive/cognitive, normative, or instrumental/interest-based—for legitimacy. Some scholars emphasize formal, procedural bases for cognitive orientations or normative beliefs. Others emphasize substantive values or outcomes. Still others address how introducing scientific rationality into law affects law's legitimacy. Empirical research on legitimacy's causes and consequences suggests that all approaches have some utility and ought to be synthesized. Consistent with Weber's discussion of rational-legal authority, law's legitimacy is important for the legitimacy and hence stability of political systems. Legitimacy achieved on a cognitive basis *can* counteract any tendency of interest- or value-based conflicts to undermine social order. However, dynamics of legitimation, delegitimation, mobilization, counter-mobilization and conflict are integral to the ordinary, everyday workings of legal institutions. These dynamics show how political order is produced *through* legally and politically induced legal change.

David Weissbrodt

Articles

Review of the Implementation of and Follow-up to the Conventions on Slavery, 42 GERMAN YEARBOOK OF INTERNATIONAL LAW 242 (1999) (with Michael Dottridge).

In the modern world slavery may appear to be a historical problem overcome by an enlightened and expanding civil society governed by the rule of law. Unfortunately, this perception is far from true: although it is widely believed that slavery has been abolished, various forms of slavery remain at the end of the twentieth century. This article looks at the international law against slavery, and at the mechanisms the United Nations (UN) has established to monitor its abolition.

The way ahead for the AI Mandate, A.I. DOC. POL 21/03/00 (2000) (with Peter Pack).

This paper offers some broad options for the development of AI's mandate, ranging from maintaining the status-quo, to developing AI as a federation of national organizations each developing their own mandates, to defining AI's mandate as the full range of rights specified in the Universal Declaration of Human Rights and other internationally recognized human rights instruments. The aim is to explore the implications of some very different ways in which the AI mandate (i.e., the bounds of permissible work) could develop in the coming years.

Updated review of the implementation of and follow-up of the conventions on slavery, U.N. DOC. E/CN.4/2000/3 & ADD.I (2000) (with Anti-Slavery International).

This U.N. study traces the core international law against slavery: its origins and the progress of the international campaign to abolish the slave trade and slavery, the legal instruments and institutions which have been established to combat slavery (including the UN Working Group on Contemporary Forms of Slavery), the evolving definition of slavery, contemporary forms of slavery, and other related practices. The study then focuses particular attention on serfdom, forced labor, debt bondage, migrant workers, trafficking in persons, prostitution, forced marriage, the sale of wives, and other issues. The study concludes with a review of international monitoring mechanisms and recommendations. See GERMAN YEARBOOK article above.

Principles relating to the human rights conduct of companies, U.N. DOC. E/CN.4/SUB.2/2000/WP.2/WP.I & ADD.I & 2 (2000).

The U.N. Working Group on the Methods and Activities of Transnational Corporations requested the preparation of these human rights guidelines for companies. The guidelines encompass a very broad range of subjects, including standards to discourage company involvement in violations of humanitarian law, human rights, labor standards, consumer protection, and environmental protection. The guidelines should be more

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comprehensive than any previous standards and reflect existing international law provisions; UN, ILO, OECD, and other intergovernmental guidelines; company codes of conduct, and newly recognized concerns about the conduct of business.

Human Rights and International Law and Institutions, in COMMON LAW, COMMON VALUES, COMMON RIGHTS 93 (Peter Goldsmith & Roberta Cooper Ramo, eds., 2000).

This chapter traces the history of the U.S. approach to international standards, particularly in regard to human rights, and notes the important role that the United States has played in the development of international human rights treaties and institutions. The second part shows that the United States has been, nonetheless, extraordinarily reluctant to submit itself to legal obligations under those treaties, related standards, and institutions. The chapter concludes that the United States and the United Kingdom share a legal tradition of protecting human rights, but the United States has more steps to take in bringing its human rights ideals into law and practice.

An Analysis of the Fifty-first Session of the United Nations Sub-Commission on the Promotion and Protection of Human Rights, 22 HUM. Rts. Q. 788 (2000) (with Mayra Gomez and Bret Thiele).

Since many treaties and other human rights instruments have been promulgated, the Sub-Commission has de-emphasized its standard-setting function and has given greater attention to promotion, problem solving, implementation, and the use of public pressure to improve human rights.

The Beginning of a Sessional Working Group on Transnational Corporations Within the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities, in LIABILITY OF MULTINATIONAL CORPORATIONS UNDER INTERNATIONAL LAW 119 (Menno T. Kamminga & Saman Zia-Zarifi, eds., 2000).

In 1998 the U.N. Sub-Commission on the Promotion and Protection of Human Rights decided to form the Working Group on the Methods and Activities of Transnational Corporations for a period of three years (1999–2001). It is clear that the issues relevant to transnational corporations and human rights are difficult and have not been adequately explored by U.N. bodies. It remains to be seen whether the Sub-Commission has the institutional competence and expertise to respond to the major challenge of making a real contribution to understanding the relationship between transnational corporations and human rights.

Susan M. Wolf

Articles

Should We Offer Predictive Tests for Fatal Inherited Diseases and, If So, How?, in *ETHICAL DILEMMAS IN NEUROLOGY 22* (Adam Zeman & Linda L. Emanuel eds., 2000) (with Thomas G. Horejsi).

As the genetic basis for a growing number of disorders is identified, physicians face new questions. They must decide what to tell patients about genetics, when to offer genetic testing, and when to refer patients to genetic counselors and specialists. The experience with three neurological disorders—Huntington's, Tay-Sachs and Alzheimer's—has been particularly important in developing the debate over genetic testing and physician responsibilities. That experience suggests substantive guidelines for the future. ■



Professor Jim Chen was named to the 2000–2001 Julius E. Davis Chair in Law. Pictured during the reception held in honor of the Chair recipients are: Dean Tom Sullivan, Mrs. Julius E. Davis, Professor Jim Chen, and his parents, Hsien-Shih and Shuang-Ling Chen.

The Enduring Institution That is the Electoral College

By Guy Charles, Associate Professor of Law

A decade before the 2000 Presidential elections, in a chapter ominously entitled *The Coming Constitutional Crisis*, David Abbott and James Levine warned that the Electoral College would soon produce a “wrong winner”—a president who wins the electoral count yet loses the popular count. Whenever this happened, they predicted, the presidency would face a profound crisis of legitimacy.¹ Among critics of the College, the possibility that the College will produce a “wrong winner” has been held, like the sword of Damocles, over the heads of those who support the current system, too enamored of the Framers’ invention to appreciate the impending doom.

Abbott and Levine were prescient in one respect: the 2000 Presidential elections did in fact produce a “wrong winner.” George W. Bush, the forty-third President of the United States, won the electoral count but lost the popular vote—an event that has only occurred on two previous occasions in American history.² But in their contention that the Presidency would suffer a crisis in legitimacy if and when the electoral count and popular vote do not match, Abbott and Levine may be on the wrong side of history. The circumstances surrounding George W. Bush’s ascension to the Presidency defied warnings that such a state of affairs would give rise to a state of chaos.

Why, despite the perceived—and now real—risks, does the Electoral College persist? As with many of the institutions designed by the founding generation, one might be tempted to ascribe the longevity of the College to the wisdom of the founders. However, to the extent that the founding generation exhibited much wisdom in the design of a majority of our institutions, the College hardly epitomizes such wisdom. A cursory glance at the historical record suggests that the Electoral College was not the first choice of a majority of the delegates of the Constitutional Convention of 1787. The collective wisdom of the delegates

was that the College was at best the second-best method for selecting the country’s chief executive. When James Wilson, Alexander Hamilton and Luther Martin independently proposed an early variant of the Electoral College as a method of selecting the president, their proposals were at first ignored and later roundly defeated by the delegates. The Electoral College became the method of selecting the president in great part because it was the least controversial alternative, even if not the best one.

The Electoral College, “that hoary eighteenth century institution,”⁴ has managed to survive into the dawn of the twenty-first century.⁵ Without question, the College is an enduring American institution. This is the more remarkable in light of the fact that many have called for its abolition almost since its inception. The College has survived despite of its lack of popularity, its opacity and its controversial nature is certainly worthy of note. To my mind, however, the College is worthy of attention not for substance of the myriad debates it has spawned in favor or against the institution, but for what those debates tell us about our commitment to democracy, who we are as a nation and how we define ourselves.

The debate surrounding the continuing use of the College masks fundamental inquiries about the nature and extent of our commitments to democracy and federalism in presidential elections. In this brief essay, I explore the manner in which these commitments affect the larger debate over the Electoral College. I do so by focusing on two issues. First, whether the popular vote is the most legitimate method of selecting the president and the vice-president. Second, whether the unit-vote method employed by the overwhelming majority of the states, what is commonly known as the winner-take-all system, diminishes the voting power of political and racial minorities. In light of these two inquiries, I suggest that before we can meaningfully talk about whether the Col-



Guy Charles

lege is worth keeping or changing, we must first come to grips with the scope of our democratic commitments as well as the compromise we have struck between state and federal interests in presidential elections. Until we struggle with and come to appreciate these two crucial foundations of our democratic ethos, the Electoral College debate is unproductive.

I begin with the contention of critics of the current system that the College should be abandoned in favor of a direct election system on the grounds that selection by popular vote

is the more legitimate alternative. The central inquiry here is whether the presidency is less legitimate, as a normative matter, if the process produced a wrong-winner. I think not. The supposition of illegitimacy presupposes an outcome-determinative conception of legitimacy: the presidential process is legitimate only if it produces the right outcome. But in this context legitimacy is in part outcome-dependent and in part process-dependent. That is to say, if the rules of the game are described ex ante and the parties play by these rules, then any outcome of the game is by

definition legitimate. The fact that the Electoral College will produce a “wrong-winner” is part of the expected outcome as defined by the rules of the game. Put simply, the rule of decision is that the “Person having the greatest Number of Votes shall be President, if such Number be a Majority of the whole Number of Electors appointed.”⁶

The controversy surrounding the 2000 Presidential elections is useful to illustrate this point in a less abstract manner. The fact that George W. Bush lost the popular vote did not seem to unnerve the general public. The public accepted the result of the electoral count once the legal challenges were exhausted because there was a sense that the selection of George Bush, even if he lost the popular vote count, was part of the expected outcome.

In contrast, the reaction to the Bush presidency in the African American community differed markedly from that of many White Americans. Some commentators criticized African American leaders for publicly announcing that they will not accept the result of the election on precisely the grounds mentioned above—that the result was democratic because it was part of a democratically-expected outcome. However, African American lead-

ers responded that they were rejecting an outcome that they would have conceded ex ante was legitimate. Rather, they argued that the outcome was not legitimate because the rules of the game were not followed.

Thus, though there may not be agreement about whether the proper procedures were followed in the 2000 Presidential elections, there seem to be some agreement about the ground rules, which are, where the proper procedures are followed, the outcome cannot be contested. In other words, in a society committed to democratic rule, systemic outcomes are by definition democratic when those outcomes are the product of preexisting commitments.

It is possible to reframe the legitimacy argument differently and perhaps more persuasively. The argument favoring the abolition of the College is sometimes based on the contention that our conception of democracy has evolved considerably beyond that of the founding generation and the era of the Electoral College’s debut so that popular election is now more important than it once was. This argument has considerable merit.

Without question, our conception of the right to vote differs dramatically from that of the founding generation. Indeed, the institution of the Electoral College itself evidences the founding generation’s ambivalence—at best—toward direct democracy. In contrast, our contemporary understanding of the franchise as well as the extent of the democratization of the franchise is evidenced by the Civil Rights Amendments;⁷ the 19th Amendment, which granted women the right to vote,⁸ the 24th, which outlawed the poll tax;⁹ and the 26th Amendment which granted eighteen year olds the right to vote.¹⁰ *Baker v. Carr*¹¹ and the Supreme Court’s “one person one vote” revolution is perhaps the best doctrinal evidence for our contemporary understanding of the democratization of the franchise.¹²

And yet, while it is true that our contemporary constitutional understanding of democracy contemplates a broader and more inclusive concept of democracy and sovereignty than that contemplated by the founding generation, that commitment is not unequivocal. The scope of our commitment to principles of popular sovereignty is an issue that was not only debated at the founding but continues to be contested even today. Put more concretely, is the Court’s reapportionment era voting rights cases—which are concerned with the scope of the right to vote when the state provides for voting as a method of political participation—broad

The central inquiry here is whether the presidency is less legitimate, as a normative matter, if the process produced a wrong-winner. I think not.

enough to provide for a right to vote in presidential elections. Can the contention that voting is a fundamental right be squared with an opposing contention that voting in presidential elections is simply a discretionary prerogative of the states? The Supreme Court's recent opinion in *Bush v. Gore*¹³ is illustrative.

The Court stated in *Bush* that the "individual citizen has no federal constitutional right to vote for electors for the President of the United States unless and until the state legislature chooses a statewide election as the means to implement its power to appoint members of the Electoral College."¹⁴ Further, the Court explained that "the State legislatures' power to select the manner for appointing electors is plenary; it may, if it so chooses, select the electors itself, which indeed was the manner used by the State legislatures in several States for many years after the Framing of our Constitution."¹⁵ If there once was doubt, the Court clarified in *Bush* that the constitutional structure envisions a minimal role for "we the people" in the selection of our chief executive.

One may object to *Bush v. Gore* on a number of plausible and persuasive grounds. But on this score—the function contemplated by the Constitution for popular selection of the president—the opinion is thoroughly consistent with the text and structure of the Constitution. It is not simply that the Constitution fails to ensure a right to vote for president or otherwise—for clearly, Article II of the Constitution and the Twelfth Amendment both provide for presidential election by presidential electors. Instead, of interest here is the fact that the Constitution indicates an alternative conception of the franchise that is much more restrictive than the vision of democracy represented in the Court's reapportionment era cases.

This alternative vision provides a counterweight to the seemingly overwhelming pull of broader sovereignty principles. Moreover, and perhaps more importantly for our purposes, a constitutionally enshrined commitment to "unpopular" sovereignty explains, at least in part, the debate and struggle over the Electoral College. After all, arguments about legitimacy and the popular election of the president are in fact arguments about the limits and reach of our commitment to the democratization of the franchise. Even though these arguments are often confusingly and unhelpfully framed in terms of legitimacy, what they in fact mask is a basic struggle about democracy. This point will become clearer as we look at a second argument advanced against the continued retention of the College.

A second criticism often offered in favor of the eradication of the Electoral College is that the College diminishes the voting power of various political minorities, including both voters of color and third party supporters. The criticism is essentially that the winner-take-all system unnecessarily "wastes" votes, particularly when compared to a districted-vote system or a direct vote system.

The unit-voting system employed by most states—which is not constitutionally required—"wastes" votes whenever the unit winner wins by a greater margin than necessary to carry that unit. The votes are considered wasted not simply because they represent an unnecessary marginal excess, but because the excess margins could make up the difference in another unit lost by the candidate.¹⁶ Similarly, the unit vote rule also wastes the votes of the unit loser. Even though the unit vote loser was able to win some votes, because the candidate did not carry the unit, he or she does not get any electoral votes. Thus, the voters who voted for that candidate "wasted" their vote, especially if their candidate was from a third party.

As an empirical matter, the impact of the Electoral College on political minorities is more nuanced than it might first appear. Think first about the impact of the College on third parties. The unit vote system, as opposed to a proportional system, does in fact make it more difficult for political minorities to win electoral votes. When the unit is defined as the "state," which it is in every jurisdiction with the exception of Maine and Nebraska, political minorities, by definition will find it more difficult to carry the unit. The unit rule is one reason that third parties have found it nearly impossible to break the hold that the Republican and Democratic parties have had on presidential selection.

On the other hand, the unit rule has generally favored voters of color. The Electoral College currently favors urban voters, Latino voters, Jewish voters and African American voters who live in the North. The College favors these voters only because they live in large states or in urban areas, which are favored also by the College. As Longley and Peirce explain, the "differences in voting power arise because people live in different states, not because of differences in race" or ethnicity.¹⁷

...arguments about legitimacy and the popular election of the president are in fact arguments about the limits and reach of our commitment to the democratization of the franchise.

Unit voting minimizes the voting strength of African Americans in the South, but only because these African Americans citizens live in the South and constitute a political minority. As long as African Americans in the South remain politically liberal, Whites in the South remain politically conservative, and African Americans are numerical minorities, they will continue to cast “wasted” votes in presidential elections.

Thus, the empirical evidence on the impact of the Electoral College on political minorities and voters of color is mixed. The College helps some groups, Latinos, Jews, urban voters. For others, in particular political minorities, the unit rule fails to maximize their political influence in presidential elections.

However, the unit vote debate makes a more fundamental division. The debate is really an argument about what should constitute a proper “unit” for presidential elections. On one level, the argument is whether the proper unit is a state or a congressional district. But on a more fundamental level, the argument is whether the proper unit is a state or the whole of the United States. Viewed from this perspective the unit-vote debate clearly raises questions about our national commitment to a certain conception of federalism. To what extent are we fundamentally a collection of sovereign states? To what extent are the interests of the states subsumed to that of the national or federal government?

There is something to the argument that Presidential elections are federal in character. That is, presidential elections implicate the federal government side of the federal-state balance. Presidential elections present the only opportunity for the entire country to collectively express a political preference. Therefore, it is worth discussing the role that the federal government should play, and conversely the role that should be left to the states in presidential elections.

Similarly, there is also something to the argument that our contemporary commitment to greater democratization should be reflected in the constitutional structure. The Court’s statement in *Bush*—that there is no constitutional right to vote in presidential elections where the state has not provided that right—is accurate but inharmonious with our contemporary norms of political equality and popular sovereignty. Our contemporary political (and constitutional) norms would surely include the right to select the chief executive as a core requirement of popular sovereignty. Consequently, we

should talk about those democratic commitments, including their scope and their costs.

What we should not do is confuse those inquiries with the merits and demerits of the Electoral College. Questions of democratic sovereignty and federalism should be discussed on their own terms. We cannot meaningfully appreciate the costs and benefits of selecting our president in the manner designed by the Framers long ago in Philadelphia until we come to grips with our own conception of the right to vote and the federal character of presidential elections. Until then, my prediction is that the enduring institution that is the Electoral College will continue to select presidential winners on our behalf, “wrong” ones and otherwise. ■

Footnotes

1. David W. Abbott and James P. Levine, *Wrong Winner: THE COMING DEBACLE IN THE ELECTORAL COLLEGE*, ch 1, 1–20 (1991).

2. The two previous elections were the Hayes-Tilden presidential election of 1876 and the Cleveland-Harrison election of 1888. Lawrence D. Longley and Neil Pierce, *THE ELECTORAL COLLEGE PRIMER 2000*, 27–8 (1999).

3. Madison’s words in this regard are worth reproducing:

The difficulty of finding an unexceptional process for appointing the Executive Organ of a Government such as that of the U.S. was deeply felt by the Convention. As the final arrangement of it took place in the latter stage of the Session, it was not exempt from a degree of the hurrying influence produced by fatigue and impatience in all such Bodies: tho’ the degree was much less than usually prevails in them.

James Madison to George Hay, 3 August 1823, in *The Records of the Federal Convention of 1787*, at 458 (Max Farrand ed., 1911).

4. Lawrence D. Longley, *The Electoral College and the Representation of Minorities*, in *THE PRESIDENT AND THE PUBLIC 173* (Doris A. Graber, ed. 1982).

5. Although the College has managed to survive, it has not been without some modifications. The most notable modification has been the Twelfth Amendment. See U.S. CONST. AMEND. XII. The primary contribution of the Twelfth Amendment has been to provide for separate votes for presidential and vice-presidential candidates.

6. U.S. Const. Art. II § 3.

7. U.S. Const. Amend. XIII, XIV, and XV.

8. U.S. Const. Amend. XIX.

9. U.S. Const. Amend. XXIV.

10. U.S. Const. Amend. XXVI.

11. 369 U.S. 186 (1962).
12. See, e.g., *Reynolds v. Sims*, 377 U.S. 533 (1964).
13. 513 U.S. ____ , No. 00-949, slip op. 1 (2000)
14. *Id.* at 5.
15. *Id.*
16. Most states award all of the electoral votes to the candidate that wins the state—the unit—even if only by a mere plurality. Abbott & Levine explain one of the possible scenarios in which the winner-take-all system gives rise to wasted votes in the following way:

[I]magine that the winning candidate carried the twelve largest states (and their 279 electors) by narrow 10,000 vote margins in each of those states. Thus, the winner's total plurality in those twelve states was 120,000 votes. However, our winner lost the remaining states overwhelmingly, by an average of 100,000 votes per state. The other candidate's plurality in those thirty-eight states would, therefore, be 3,800,000. Thus, although the losing candidate received 3,680,000 more votes nationwide, the other candidate would win the electoral college vote 279 to 259!

ABBOTT & LEVINE, *supra* note 1, at 24.

17. LONGLEY & PIERCE, *supra* note at 158.

Thanks to Professors Carol Chomsky and Dale Carpenter for comments on the essay. This essay is an excerpt from an article entitled "Should We Rethink the Electoral College?," co-authored with Luis Fuentes-Rohwer, forthcoming in Florida State University Law Review.



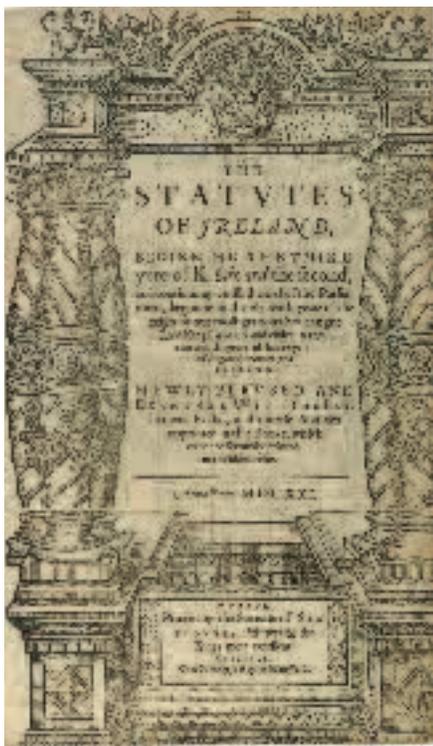
A presentation by Professor Susan Wolf, lively conversation and food highlighted the annual Lex Alumnae Holiday Luncheon held December 30, 2000 at the Minneapolis club.

Digital Legacies:

The Arthur C. Pulling Rare Books Collection in Cyberspace

Katherine Hedin, Curator of Rare Books and Special Collections

The University of Minnesota Law Library is pleased to announce Digital Legacies, the portion of the Law Library's web page that provides electronic access to treasures in the Arthur C. Pulling Rare Books Collection. The Law Library is especially honored to introduce the first installment of Digital Legacies, "Laws in Ireland for the Suppression of Popery," authored by M. Patricia Schaffer. Technical expertise for Digital Legacies is provided by Timothy Fay, Law School Webmaster. Katherine Hedin is responsible for project planning and coordination.



The statutes of Ireland... Edited by Sir Richard Bolton. Dublin, 1621.

"Laws in Ireland for the Suppression of Popery" contains the texts of seventeenth and eighteenth century Irish statutes known collectively as the Penal Laws—statutes passed by the Protestant Parliament of Ireland to regulate the status of Roman Catholics. Included are the full text of laws passed from 1691 to 1760, during the reigns of William and Mary, William III, Anne, and George I and II. Statutes passed specifically for the purpose of addressing the "popish or Catholic problem" are included in their entirety; two of the most prominent are the popery acts of Anne, passed in 1704

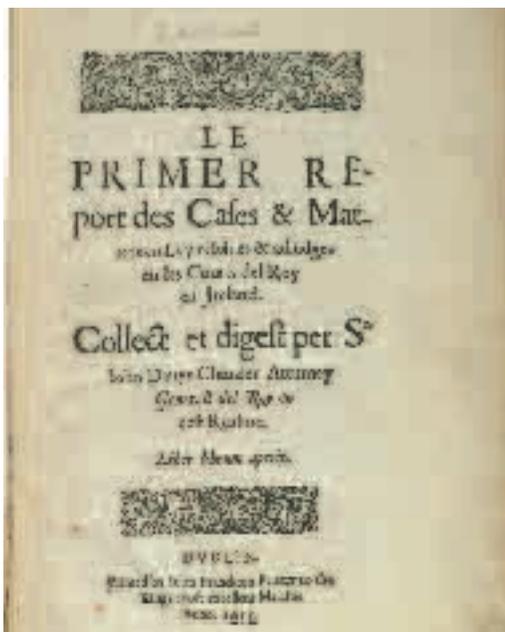
and 1709. Also included are relevant sections of other statutes which dealt with extraneous issues, such as taxes or the jury system, but which created different standards for Catholics and Protestants.

Unless otherwise noted, the statutes on the site are from the Irish Parliament, which co-existed with the English Parliament until it was dis-

solved by the Act of Union in 1800. Throughout its existence, the Irish Parliament was, however, subject to England as a result of acts of the English Parliament of 1494, usually called Poyning's Law. Poyning's Law established that any Parliament assembled in Ireland required the Crown's approval and declared that all statutes previously passed in England should have full effect in Ireland. Poyning's Law was asserted and extended in the Declaratory Act of 1720, which affirmed the right of England to legislate for Ireland and transferred the right of appeal in Irish law cases to the British House of Lords.

Although laws governing the rights of Catholics—as well as Jews, Protestant Dissenters (non-Anglicans) and Quakers—had been in effect since the time of the English Reformation, it was not until 1691 that the penal system began in earnest. The surrender of Roman Catholic James II at the Battle of the Boyne in 1690 and the surrender of his supporters at Limerick a year later signaled the period of Protestant Ascendancy in Ireland. While Protestant William III was subject to the limits put on royal power by the Bill of Rights 1689, the rights contained therein extended only to Protestants. The English Parliament restricted membership in future Irish parliaments to Protestants. The Irish Parliament began to systematically enact a series of laws which excluded those following the "popish" faith from the civil life of Ireland.

The Penal Laws included in this site affected every aspect of Catholic life in Ireland. Bishops, deans and friars were ordered to leave the country; if they returned they would be put to death. Beginning in 1709, priests could remain only if they took an oath of abjuration. It was forbidden to establish or maintain Catholic schools. The laity were excluded from Parliament, from corporations, the military, the legal profession and all civil offices. Catholics could not carry arms or own a horse worth



Sir John Davis. *Le premier report des cases...adiudges en les courts del roy en Ireland...*Dublin, 1615. The first Irish law reports.

more than five pounds. Catholics could not marry Protestants, and a priest who performed such a ceremony was sentenced to death. Catholics could not acquire land, or buy it, or hold a mortgage on it. The gradual dismantling of these laws, which began with the Catholic Relief Act of 1778 and culminated in the Catholic Emancipation Act of 1829, is not covered in this website.

The purpose of this site is not to evaluate the historical context of the Penal Laws or discuss their influence, but to make the raw material available to legal scholars, historians and students. The full text statutes are enhanced by detailed summaries of each of the Penal Laws. The summaries, prepared by Ms. Schaffer, consist largely of extracts from the actual language of the statutes, and are designed to clarify the meaning of these very verbose statutes. In addition, subject and chronology indices facilitate the use of the website.

The Arthur C. Pulling Rare Books Collection provided source material for the website. Early Irish legal history is well represented in the Collection. Of particular importance is the landmark edition of Irish statute law by Sir Richard Bolton, printed in Dublin in 1621. (The first edition of Irish statutes, printed in London in 1572, is a unique copy surviving only in the Cambridge University Library.) Bolton's edition was followed almost 150 years later by the first folio edition, edited by Francis Vesey, an eleven volume set that began publication in 1765. This was quickly followed in 1786 by another edition, also edited by Vesey. It was this compilation which was scanned and

converted to searchable text for the website.

In addition to a strong collection of Irish statute law, case law is also well represented in the Rare Books Collection. Certainly one of the highlights is the first Irish law reports, entitled *Le premier report des cases...adiudges en les courts del roy en Ireland*, published in Dublin in 1615. Written by Sir John Davis, Attorney-General for Ireland, it is the first law book printed in Ireland. Also of interest is G.E Howard's collection of popery cases, *Several special cases on the laws against the further growth of popery in Ireland*, published in 1775, the only collection of Irish law reports of any substance to appear between 1615 and 1790.

Irish legal history is further represented in the Collection through secondary sources. One notable title is a tract written by William Molyneux in 1698 entitled *The case of Ireland's being bound by acts of parliament in England*, a tract which actually articulated the opposite position, namely Ireland should never be bound by English law. (The Library's copy dates from 1720).

Digital Legacies will continue to grow as the Law Library places additional digitized materials from the Rare Books Collection on the web. The value of digitization of rare books is obvious. Access to the content of the Collection will be improved, while fragile items will be protected from use. Network surrogates can allow an unlimited number of people to study the materials without compromising the preservation of the original. Virtual exhibits can allow books to be displayed indefinitely, while the artifact remains in a secure, climate-controlled vault.

As we assert the desirability of providing for the migration of rare materials to cyberspace, we must not lose sight of the importance of conserving the original artifact. A secure and climate-controlled space has been built for the Arthur C. Pulling Rare Books Collection. The result of a vision of Dean E. Thomas Sullivan and dedicated alumni, this space will ensure that students and scholars now and in the future will be able to travel from a virtual reading room to an actual reading room, where they can study the original artifact. ■

“The purpose of the Irish Penal Laws, like that of the apartheid laws of recent South African history, was to disenfranchise the native majority from all power. Unlike apartheid, the disabilities created by the Penal Laws were aimed not at a particular race or ethnic group, but at the adherents of a particular religion.”

—M. Patricia Schaffer

Access Digital Legacies at:
<http://www.law.umn.edu/library/home.html>

Hands Across the Water, Hands Across the Sky:

The Minnesota Connection

“I have powerfully assumed the negativity of my time.”

—Franz Kafka

By *Tricia Baatz Torrey*

Imagine being a law professor suddenly fired from your position at the university because of your ethnic origins. Imagine the library and school destroyed, books confiscated, the entire legal system as you know it disenfranchised. Such was the situation not long ago under the rule of Milosovic in Kosovo, where ethnic Albanians were not only fired from their positions as law professors, but were not allowed to move into other occupations.



Visitors from the University of Pristina, Kosovo.

“The really marvelous thing is that a group of these people started teaching law as a private activity and they formed an unaccredited, unauthorized law school which operated in people’s basements, auto repair shops, wherever they could get space, assemble people, where students could come with their notebooks and copy things out, but no library, really no fixed place of business. They could continue at a particular place for several months and then a zoning inspector would close them down and they’d have to go somewhere else, and as things went on they could be less and less open about it,” said Professor Fred Morrison, who, with the

University of Minnesota Law School, hosted a group of six visitors from the University of Pristina, Kosovo last fall, during the week of October 16–20. Their visit here was part of a national exploration of the American methods of legal education. Other stops included Chicago-Kent, and Michigan State law schools, a meeting with the American Bar Association program on Central and East European studies in Washington, D.C., and a visit with Judge John Tunheim, (’80) a U.S. District Court Judge in Minneapolis who is also the Federal Judiciary’s liaison with Kosovo for the rebuilding of judicial institutions there.

Kosovo is in the midst of reforming a legal system based on old Soviet models and also in rebuilding and reforming their system of legal education, which was based on lectures and did not include instruction in legal writing or clinical work. Morrison said, “Add to that the fact that when Yugoslavia was still a country it was a communist-socialist country in which the notion of private property, private enterprise, people choosing to do things on their own was not really known. It was not as communist as say, Russia, there was some semblance of small, private enterprise but the codes and laws were not written for a modern society in which people were making investments and so on.”

During the fighting last year, the Serbian authorities removed books, equipment and furnishings from the school and the building itself was in rather substantial disrepair. Since then the school has been reinstated, with both old and new faculty hired, but there are still problems with financing. Many of the professors who teach law at the University of Pristina have second jobs, which detracts from their ability to teach. “Old society law worried a lot about criminal law and state apparatus, but not

about business or sales or business transactions or property, so one of the things they have to do is move their curriculum to accommodate the world into which they are emerging, one where there is international trade, where there are businesses, enforceable contracts," Morrison said, "they probably have to change their way of thinking about teaching, to get students much more involved because students are the people who bring about change."

While the group visited the Law School, they observed many classes and connected with the Minnesota Advocates for Human Rights and students involved with Amnesty International. Morrison said, "I think the students in my international law class came to appreciate the human right issues, some of the national unit kinds of issues, some of the minority protection issues, some of the war crimes a lot better because these were real people and not abstract ideas."

"The University of Minnesota Law School Class of 2001, as part of its class gift, has decided to collect used books and purchase some new materials for donation to the Kosovo Law Center," said Tracy Fisher, one of three graduating law students coordinating the project, along with Abigail Crouse and Mike Skoglund. Donations have been collected from students in all three class years, professors, librarians and the Law Library. Also as a result of the visit, West Group has donated a number of books to Pristina Law School.

Two U of M Law Grads in Kosovo

U.S. District Court **Judge John R. Tunheim** ('80) and Gregory Givold are both actively involved in helping Kosovo restructure its judiciary and in helping to oversee war crime trials.

Judge Tunheim was asked last January by the Department of State and the Justice Department if he would be willing to spend much of the month of February in Kosovo, to assist the U.N. in what is called a judicial assessment mission. "When I arrived nine months after bombing ended, things were still a mess, in many respects the Province was still a mess. There was a temporary judicial system in effect that was quite ineffective, very few prosecutions had gone forward, and nothing in civil court had happened at all." When he arrived, the U.N. authorities appointed about 200 judges and prosecutors throughout Kosovo. However, there were huge disputes over what the applicable law was going to be, along

with several other problems, including court-houses that had no heat, electricity, equipment or security.

"When the U.N. first came in they decreed that the law was going to be basic Yugoslav and Serbian law and that was met with massive resistance by the majority of Albanian citizens in Kosovo," Tunheim said. "After six months they finally decided the law was going to be as it was in 1989 when the Albanians were effectively removed from any position of authority, and people agreed to that, but it was a fairly primitive set of laws, and exactly what they were was not clear because nobody really had a statute book that had everything in it."

Judge Tunheim said the process for writing new laws is very time-consuming. There is an advisory committee made up mostly of Kosovars and Internationals. There are a few Serb participants. Recommendations are made to the special representatives to the Secretary General and then it has to go through an international approval process because it's being conducted by the United Nations. There is extensive review by law professors, a review in Europe and in New York. Tunheim believes the laws will eventually be closer to a European model with all of the international conventions reflected.

Judge Tunheim said that problems continue in Kosovo that reflect both the past and the future; the past in the sense that there is still an enormous amount of anger built up over centuries that really culminated in the events of the 1990s, the future in the sense that Kosovo's future is still unsettled, with a big fear among the Kosovar Albanian citizens that Milosevic's departure will mean that somehow the world will abandon them and put them back into Serbia.

Judge Tunheim added, "They've made a lot of progress, though they still don't have a multi-ethnic system which we were hoping could be developed and I think perhaps still can be developed, but I don't think that's going to be until they decide what the future of Kosovo is going to be. Is it going to be part of Serbia, an autonomous part of Yugoslavia, or is it going to be independent? Those are very important questions that hang like a storm cloud over the development of the rule of law. But I am convinced that the best hope is the rule of law, something they've never had in the past, and something that they are grasping and are very anxious to put in to effect in a way that protects the rights of all citizens. That's why all these projects that we're involved in, that the Law School is now involved in, to establish the

rule, a healthy rule of law for the future is really the best hope.”

Greg Gisvold ('94) first volunteered in Bosnia in 1996, using his vacation time from the Minneapolis firm of Hallelund Lewis Nilan Sipkins & Johnson. He has now taken a two-year leave of absence to direct the ABA's Central and East European Law Initiative in Kosovo. Though his working title is “Country Director,” Gisvold refers to his work as “Peace Corps for lawyers.”

“I'm a product of David Weissbrodt's Human Rights class,” Gisvold said, “and that experience naturally led me to this job. My firm was willing to give me a leave of absence. They thought it was a good idea that I do public service work.”

While in Kosovo, Gisvold will lead a team of lawyers and judges in helping to create a new legal structure. They will work to reform criminal procedure codes, develop a bar association, train newly appointed judges and prosecutors, and organize Kosovo's first independent judges association and defense bar. Gisvold also oversees Kosovo's War Crimes Liaison, which gathers war crimes information for the International Criminal Tribunal for the Former Yugoslavia.

“We're in a position to help fight for peace,” Gisvold said, “I believe that any person capable of performing this type of human rights work has an obligation to do so.”

McDonald Reflects on Ambassadorship

After completing a “three year tour of duty,” as Ambassador to Zimbabwe under the Clinton Administration, **Tom McDonald** ('79) has resumed his position as partner with the firm of Arter and Hadden, working in both their Washington, D. C. and Ohio offices.

“My experience in Zimbabwe was very challenging and satisfying,” McDonald said, “I think we accomplished a lot, particularly in the area of HIV and AIDS; we opened thirteen voluntary testing/counseling centers around the country. I also brought all the American Ambassadors and USA directors from Southern Africa to Harare in 1999 for a three-day conference on AIDS.”

In his capacity as U.S. Ambassador to Zimbabwe, McDonald was very active in aiding with parliamentary elections held last June. Fifty-seven opposition candidates were elected of the

120 available positions. “That was very good,” McDonald said, “We did a lot with democracy-building in the country. We funded a major project in Parliament to help Parliamentarians develop a committee system with some infrastructure. The University of Albany in New York is the contractor for that project, which will go on for several years.”

McDonald also spoke out on human rights violations that were occurring in Zimbabwe, including violent intimidation around the elections and farm invasions. “We continued to dialogue with the government, but we were also very critical of the government and President Mugabe. He was not always happy with that, we had a very healthy relationship, but we told him what was on our minds. Obviously, as Ambassadors, we had to work with him, we had to work with the opposition, you can't close doors, but we let him know that the violence and intimidation that is still going on is unacceptable to the United States. Mugabe was not happy with us, but he understood where we were coming from. We want Zimbabwe to work, we want to engage with Zimbabwe. It's an important country.”

McDonald also did work in the commercial area, promoting tourism in Zimbabwe, spending a day at Victoria Falls with Matt Lauer from the *Today* show.

The transition back to Washington has been “terrific” for McDonald, who looks forward to continuing work in government affairs and international law both in the United Kingdom and Asia. He said he will “merge law and diplomacy.” McDonald added, “The Ambassadorship broadened my perspective, I think I'm a better lawyer, a better advocate. I learned a certain amount of civility on the job. Zimbabweans are wonderful, smart, and they taught me a civility there that I bring back to my work.”

Minnesota Graduates in International Law

A 1977 graduate of the University of Minnesota Law School, **Mary McCormick** found she was interested in international law, and took many courses on the topic, including Professor Hudec's course in international arbitration, which is now called international contracts. Upon his retirement last year, Professor Hudec asked McCormick if she would teach the course.

“It's been interesting because at least two-thirds of the class are LL.M. students from all around

the world...some of them have practiced, so we are able to learn from them, too. Many are able to focus on the real practical issues faster than the folks still in law school. I'm trying to teach them the practical side of how to apply this in the real world, and what negotiating a contract means. So many people think of it as an adversarial process, and I'm trying to bring in the note that it's a new relationship, and you have to not be too adversarial or you'll kill the relationship."

McCormick felt fortunate in the way her career developed around her interest in international law. She worked for a short time for Baker & McKenzie in international law right after graduation, then moved on to Honeywell where she eventually worked as associate international counsel. She now heads McCormick International, helping clients in areas of contracts, entities, regulatory issues and intellectual property.

"International law has grown so much in the last 25 years, globalization is here; people need to adjust to it and make the best of it. I think the whole field of international commercial law is going to keep on growing. Most business lawyers are going to have to learn something about it so they won't make huge mistakes with their clients."

McCormick is giving the opening talk at the annual International Business Law Institute in April sponsored by the Minnesota State Bar Association, and her topic is "Putting the International into Your Transactions." She plans on spending a very short time explaining what the similarities are between domestic and international transactions and the majority of the time explaining the differences. "If you don't practice in the area at all you just aren't aware of all of these special laws that apply, and how to juggle between two different legal systems," she said.

"I think students in my seminar are learning a lot about how cultural differences come into play and how much they affect contract negotiations. It's easy to misread foreign clients because your frame of reference is so different."

McCormick said she wanted to practice in a field of law that had a lot of variety, where she wouldn't get bored. "International law has so many dimensions to it, including the cultural ones, that it seems like something I could stay interested in for a whole career; so far that's proven to be right."

James Southwick ('89) always has had an interest in international affairs, specifically in the area of economics, politics, culture and business transactions. He decided law school would help him pursue those interests in a career. He had a very good experience in Hudec's International Contracts class and later wrote a law review note with him. Hudec was also key in Southwick's attaining a job with the United States Trade Representative (UTSR) in Washington.

"I have a master's degree in Latin American studies, speak Spanish and Portuguese, and the Government in its great wisdom thought that qualified me to work in Japan." While at the USTR, Southwick was first assigned to be a lawyer on U.S.-Japan trade negotiations, and was at the table for many different negotiations. He also worked on NAFTA matters. He met Walter Mondale in Japan while Mondale was Ambassador there. The two formed a relationship, and on Mondale's last day in Japan, Southwick asked him for advice. "I told him I loved my government job, but for personal reasons I wanted to go back to Minnesota. Mondale said 'I have one thought, why don't you come back to work for me at Dorsey Whitney?'" Southwick then returned in 1997 to work in the Minneapolis office of Dorsey Whitney where he still works in the area of international trade.

Southwick believes that international trade is "important in the sense that it's an inescapable and strong aspect of the U.S. and international economy. It's a cliché but true that the economies of the world are becoming much more integrated. A large percentage of the U.S. economy is made up of imports and exports; it is a massively larger percentage of the economy than even a generation ago. Small, medium and large companies that law firms are dealing with are either engaged in selling products overseas or seriously thinking about it. It's no longer the case that just 3M or Cargill have any international business. It's a fact of life that the world is more economically integrated and in many ways I think that's very beneficial. Of course it brings adjustments and other stresses. I think it's best to be engaged in the process, to understand it and to turn it to our best advantage rather than ignore it."

Southwick added that engaging in international business has its own inherent logic. People trying to make money look to a broader market. Ninety-six percent of the world's population lives outside the United States, when a company reaches maturity in one market it needs other places to sell. "A whole host of institutions

have developed simultaneously, improved communications contribute to the ease of international transactions and the freer flow of capital allow people to look at the global market and realize they can benefit from foreign investments...it becomes a self-fulfilling process.”

Susan Marsnik ('94), an assistant professor at the University of St. Thomas' Department of Legal Studies in Business, first became interested in international business in 1988 when she started working for the University of Minnesota Press as director of marketing. She negotiated a distributorship agreement to have titles distributed in Europe. “I realized that if I had known more about the law I would have negotiated a better contract,” Marsnik said “I also got involved in some of the subsidiary rights issues, at, for example, the Frankfurt Book Fair where we would buy and sell subsidiary rights for translations, co-publications and so forth.”

Marsnik entered law school and was on the international moot court competition team for 1992–93. Through the moot court she learned how to do international legal research, learned how to make international law arguments, and how to look at different cultural aspects of law. The following year as an international moot court director she got to teach international legal research to second-year law students.

“Many international students take my class,” she continued, “We talk a lot about how cultural differences impact business transactions, but also in understanding how those cultural issues impact the law. Our cultural values say one thing, so our law does one thing. For example, the European Union values privacy, it's considered a fundamental human right, they have a comprehensive set of laws to protect individual data privacy, where in the U.S. we are more concerned with having our privacy protected from the government.”

Marsnik said she believes learning about international trade is important because, “There are cross-cultural issues that have to be taken into consideration, not just the beliefs of the industrialized North. We also have to look at newly developed states, developing third-world nations to figure out what is truly best, not just for the multi-national corporations who are going to benefit from trade agreements, but also in terms of what it will do for individuals as far as quality of life, employment, labor and environmental issues.” ■

CAMPAIGN  MINNESOTA

Capital Campaign

Toyota \$1 Million Gift Honors Walter Mondale

Toyota Motor Corporation has honored Walter Mondale by making a \$1 million gift to the University of Minnesota Law School. The tribute recognizes Mondale's accomplishments as U.S. Ambassador to Japan from August 1993 to December 1996, and supports construction of a building addition to the Law School

Shoichiro Toyoda, head of the Toyoda family in Tokyo, and Toshiaki “Tag” Taguchi, head of Toyota North America, made the gift out of respect and appreciation for Walter Mondale's integrity and continuing commitment to advancing economic, educational, and cultural relations between the United States and Japan, and to promoting international peace.

As Ambassador, Mondale helped to negotiate several U.S.-Japan security agreements, including a resolution to the controversy about the U.S. military presence in Okinawa. He also helped to negotiate numerous trade agreements between the United States and Japan, and he promoted the expansion of educational exchanges between the two nations. In addition, he attended the annual APEC (Asia Pacific Economic Corporation) summit meetings in Seattle, Jakarta, Osaka, and Manila.

In receiving the gift, Dean Sullivan commented that the Law School was “deeply appreciative of this significant gift because it honors one of the Law School's most distinguished graduates and permits the building addition to be completed on time. This is a wonderful tribute to Walter Mondale and to our Law School community.” ■

Robins Kaplan Miller & Ciresi \$1.5 Million Gift Benefits Law School and Public

The law firm of Robins, Kaplan, Miller & Ciresi committed \$1.5 million to the University of Minnesota Law School when Senior Partner, Elliot S. Kaplan, agreed to Chair a \$30 million capital campaign for the Law School. Kaplan and Michael Ciresi, chairman of the firm's executive board, both graduates of the school, waited to designate their gift, so they could see where it would most help the campaign as well as match the firm's charitable and community service objectives.

The Law School is recognizing the firm by naming the Law School's spectacular new "main street" as the *Robins, Kaplan, Miller & Ciresi Concourse*. The new Concourse is being created by a \$9.5 million addition to the existing 1978 Law School building. In addition, the *Robins, Kaplan, Miller & Ciresi Civil Litigation Clinic* and the *Robins, Kaplan, Miller & Ciresi Public Service Program* have been named to recognize the firm's outstanding support of the Law School's clinical education and public service programs. Civil Litigation is the largest of 17 clinics run by the Law School, providing more than 18,000 hours of *pro bono* service per year to clients who otherwise cannot afford legal representation. The University of Minnesota Law School has the nation's premier legal clinical education program, offering a clinical experience to 65% of law students, compared to the national average of 25%. The Public Service Program encourages law students to perform at least 50 hours of voluntary, law-related public service with a wide spectrum of public interest agencies.

Dean Thomas Sullivan cites Elliot Kaplan's "dedicated and tireless leadership" of the capital campaign as crucial to the success the school has experienced. "We are deeply grateful to Robins, Kaplan, Miller and Ciresi because our clinical and public service programs are strong components of the Law School's commitment to educating lawyers who understand that they are public servants," said Sullivan. "The capital campaign is at the core of our vision to integrate theory, doctrine and ethics with skills and practice."

Robins, Kaplan, Miller & Ciresi L.L.P. is a national law firm with offices in Atlanta, Boston, Chicago, Los Angeles, Minneapolis, Orange County and Washington, D.C. Their litigation and dispute resolution practice is considered unique among large American law firms. The firm represents individuals, insurance companies, and businesses as both plaintiffs and defendants. ■



Rendering provided courtesy of Ryan Companies, Inc.

Naming of the Law School Building

The Board of Regents voted on Friday, March 9, 2001 to name the building housing the University of Minnesota Law School "Walter F. Mondale Hall." Former President Jimmy Carter will give homage to Mondale during the formal building dedication on May 17, 2001, where the University of Minnesota Law School will honor Mr. Mondale's contributions to the state of Minnesota, the United States and the world, including his visionary efforts to ensure equality for all Americans and to ensure peace and safety by promoting international dialogue regarding nuclear arms, global trade, environmental responsibility and diplomacy.

The Honorable Walter F. Mondale received his B.A. in political science (1951) and his law degree (1956) from the University of Minnesota. He has served as Vice President of the United States (1976–1980), Ambassador to Japan (1993–1996), U.S. Senator (1964–1976) and Attorney General for the State of Minnesota (1960–1964).

The name "Walter F. Mondale Hall" will be conferred upon the existing Law School structure completed in 1978 and the new wing currently under construc-

tion. Construction of the new wing was one of the objectives for Campaign Minnesota: The Law School's Next Century. The new space will afford the Law School greater opportunity to offer a fully integrated curriculum, uniting theory and doctrine with ethics, skills and practice.



Walter F. Mondale ('56)

The new wing, which completes the original design for the building, will house expanded library facilities, including a Rare Books Facility that will allow controlled access and proper maintenance of collections now stored in the basement; offices for the five institutes and centers; faculty offices; technologically equipped conference and seminar rooms, for specialized training and teleconferencing; and office space for student organizations, including a faculty-student cafe. ■

Law School News and Events

Naming of the National Civil Rights Moot Court Competition

A Reception was held at the Law School on February 28, 2001 to commemorate the naming of the William E. McGee National Civil Rights Moot Court Competition. Mr. McGee, class of 1980, was a strong advocate of civil rights. He was a practicing attorney for twenty years, with sixteen of those years dedicated to the representation of the poor and underprivileged. (See In Memorium Tribute on page 50.)



William Earl McGee ('80)
(1952–2000)



Mrs. Rose McGee, wife, accepted the honor on behalf of her husband and the McGee family.



Dean Sullivan (right) and Professor Warren (left) with representatives of the McGee family, Rose McGee, wife, Earl W. McGee, father, and Jonathan McGee, brother. Also in attendance was David McGee, brother.



The t-shirt, given to all participants, will carry Mr. McGee's name across the country.

The reception was scheduled on the eve of the Sixteenth Annual Competition which commenced March 1 and ended on the afternoon of March 3. Twenty-eight teams from law schools across the country argued this year's civil rights case. Over the years, hundreds of young lawyers have been introduced to the experience of practice at the University of Minnesota Law School in this important area of law by being engaged in research, reflection and dialogue concerning its issues.

Dean Sullivan opened the celebration with words of praise for Mr. McGee's accomplishments and commitment to Civil Rights. Professor Carl M. Warren heralded the William E. McGee National Civil Rights Moot Court Competition for the opportunities it provided students from across the nation. ■

Sixteenth Annual William E. McGee National Civil Rights Moot Court Competition

Held March 1, 2 & 3, 2001

The Sixteenth Annual William E. McGee National Civil Rights Moot Court Competition was held March 1–3, 2001 at the University of Minnesota Law School. Twenty-eight teams participated:

Each team briefed and argued *C.H. ex rel. Z.H. v. Oliva*, 226 F.3d 198 (3d Cir. 2000), *petition for cert. filed*, 69 USLW 3383 (Nov. 22, 2000) (No. 00–845), a case that considers the First Amendment freedom of speech and Establishment Clause implications of a public school teacher's refusal to allow a first grade student to read a Children's Bible story to his class because of the story's religious content when she had asked him to bring his favorite story from home to read to the class.

Judge James B. Loken of the U.S. Court of Appeals for Eighth Circuit, Judge Nathaniel Jones of the U. S. Court of Appeals for Sixth Circuit, Justice Joan Ericksen Lancaster of the Minnesota Supreme Court and Edward Toussaint, Jr., Chief Judge of the Minnesota Court of Appeals presided over the final argument in Lockhart Hall.

The overall winner of the competition was Georgetown University Law Center. Seton Hall School of Law Team A placed second. Brooklyn Law School won Best Brief honors. Jessica Merz from University of Minnesota Law School Team B was named overall Best Oral Advocate with

Brooke Tassoni of the University of Minnesota Law School Team A, and Brad Snyder of New York University School of Law receiving Honorable Mention. Sandra Rampersaud from Brooklyn Law School was named Best Oral Advocate of the Preliminary Rounds. The other teams that advanced to the quarter-final and/or semi-final rounds included New York University School of Law and the University of Minnesota Team B which advanced to the semi-finals, and the Seton Hall School of Law Team B, University of Minnesota Law School Team A, Brooklyn Law School and the University of Wisconsin School of Law Team A which advanced to the quarter-finals.

As with all of the Law School's moot court programs, the William E. McGee National Civil Rights Moot Court Competition received strong support from the practicing bar and bench. Over 120 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, "When Rights Collide: An Examination of the Right to Freedom of Expression within the Context of Separation of Church and State and an Educator's Discretion inside the Classroom." The well attended program included a panel discussion regarding the legal, constitutional and



The William E. McGee National Civil Rights Moot Court Competition winners pose with members of the final panel. From left to right: Jennifer Orr, Julie Gonen and Kendra Archer of first place Georgetown University Law Center are flanked by Judge James B. Loken of the U.S. Court of Appeals for Eighth Circuit and Judge Nathaniel Jones of the U.S. Circuit Court of Appeals for Sixth Circuit (on the left) and Justice Joan Ericksen Lancaster of the Minnesota Supreme Court and Edward Toussaint, Jr., Chief Judge of the Minnesota Court of Appeals (on the right).



Second Place winners, Seton Hall School of Law Team A, from left to right, Michael Noriega, Aimee Hamoy and Alejandro Perez, pose with Associate Dean of Academic Affairs Stephen Befort and Justice Joan Ericksen Lancaster of the Minnesota Supreme Court.



Winners of the Best Brief Award, Brooklyn Law School, from left to right, Benjamin Fisher, Sandra Rampersaud, who also won Best Oral Advocate of the Preliminary Rounds, and Elisabeth McOmber pose with their Coach Faisal Khan.



Overall Best Oral Advocate winner Jessica Merz of the University of Minnesota Law School Team B is flanked by team-mate Ben Butler and Coach Jennifer Ampulski, Esq. on the left and Brooke Tassoni of University of Minnesota Law School Team A, who received an Honorable Mention for the Best Oral Advocate award and Coach Steve Buterin, Esq. Ms. Tassoni's team-mate, Andrea Kiehl is not pictured. Ms. Ampulski and Mr. Buterin are Attorney Instructors with the law school's Civil Rights Moot Court.



The William E. McGee National Civil Rights Moot Court Competition was administered by, from left to right, Faculty Advisor, Clinical Professor Carl Warren and student Administrative Directors Anita Arockiasamy, Sherry Bertschinger and Blong Yang.

policy issues involved in cases like *C.H. ex rel. Z.H. v. Oliva*. The panel consisted of the law school's Professor Daniel Farber, a nationally recognized authority on constitutional law, Professor Michael Paulson, who teaches and writes in areas including constitutional law and law and religion, and Adjunct Professor Art Eisenberg who is the Director of the New York Civil Liberties Union and teaches a course at the law school on Constitutional

and Civil Rights Litigation. Clinical Professor Carl Warren moderated the panel. Associate Professor Guy Charles gave a presentation regarding the appropriate analysis of the constitutional issues in cases of this nature. Clinical Professor Maury Landsman, who teaches a course on law and ethics, discussed the ethical issues relating to attorney bias. ■

Minnesota Law Review Symposium

"The Freedom of Expressive Association"

February 10, 2001



Pictured are the Professors who spoke at symposium: (back row) Steffen Johnson, Richard L. Hasen, David McGowan, Dale Carpenter, John Nagle, Richard Garnett, Steven Gey (front row) Michael Stokes Paulsen, Martin Redish, Jim Chen, Nan Hunter, Daniel Farber, Richard Briffault, and Dean Sullivan.

The *Minnesota Law Review* hosted a symposium on "The Freedom of Expressive Association" at the University of Minnesota Law School on February 10, 2001. The symposium consisted of three panels, each comprised of nationally recognized legal scholars.

Keynote Address

Daniel Farber, *University of Minnesota Law School*

Welcome and Introductions

Dean E. Thomas Sullivan,
University of Minnesota Law School

Panel I

Boy Scouts of America v. Dale: Expressive Association or Discrimination?

Martin Redish, *Northwestern University School of Law*
Dale Carpenter, *University of Minnesota Law School*
Nan Hunter, *Brooklyn Law School*
Steffen Johnson, *Mayer, Brown & Platt, Chicago*

Panel II

Collective Political Speech: The First Amendment and Campaign Finance Reform 25 Years After *Buckley v. Valeo*

Richard Briffault, *Columbia University Law School*
John Nagle, *Notre Dame Law School*
Richard Hasen, *Loyola University Law School*

Panel III

Religious Freedom and Institutional Autonomy: Free Exercise, Establishment, and Expressive Association

Michael Stokes Paulsen, *University of Minnesota Law School*
Richard Garnett, *Notre Dame Law School*
Steven Gey, *University of Florida, Levin College of Law*

Symposium Essays will be published in Volume 85, Issue #6 of the *Minnesota Law Review*.

The William B. Lockhart Lecture

Elizabeth Warren delivered the Lockhart Lecture on January 29, 2001. Her lecture entitled, "On Their Own: Women, Divorce and Bankruptcy." Elizabeth Warren is the Leo Gottlieb Professor of Law at Harvard University Law School where she teaches in the areas of bankruptcy, contracts, regulated industries and corporations. She received her B.S. from the University of Houston in 1970 and her J.D. from Rutgers University in 1976. Professor Warren has taught at the University of Pennsylvania Law School, the University of Texas School of Law, the University of Michigan, Rutgers University of Law and the University of Houston Law Center, where she was also the Associate Dean for Academic Affairs.

Professor Warren's research interests include Empirical and Policy work in Bankruptcy and Commercial Law, Financially Distressed Companies, and Women, the Elderly, and the Working Poor in Bankruptcy. She is currently the United States Adviser to the Transnational Insolvency Project of the American Law Institute and serves on the Nominating Committee and the Executive Committee of the



Elizabeth Warren

The Lockhart Lecture is the oldest and most distinguished lecture at the Law School. The lecture series, named after the 5th Dean of the Law School William B. Lockhart, is now in its 25th year. Through the lecture series distinguished scholars, judges and lawyers enrich the education program and challenge the thinking about important issues at the Law School.

Council of the American Law Institute. Professor Warren has been appointed by Chief Justice Rehnquist to three terms on the Federal Judicial Center Committee on Judicial Education.

She has published extensively in the area of Bankruptcy and Commercial Law, including the following books and articles: "The Fragile Middle Class: Americans in Financial Crisis" (2000); "Business Bankruptcy" (1993); "As We Forgive Our Debtors" (1989); "The Law of Debtors and Creditors" (1986), *Medical Problems and Bankruptcy Filings* (2000); *Financial Characteristics of Businesses in Bankruptcy* (1999); and *The Changing Politics of American Bankruptcy Reform* (1999). ■

The John Dewey Lecture in the Philosophy of Law

The John Dewey Lecture in the Philosophy of Law was presented by Robert C. Post, the Alexander F. and May T. Morrison Professor of Law at the University of California, Berkeley, Boalt Hall School of Law, on October 23, 2000. His presentation was entitled, "Supreme Court Decisionmaking in the 1920s."



Robert C. Post

Professor Post received his B.A., *summa cum laude*, from Harvard University and his J.D. from Yale Law School, where he was Note Editor of the *Yale Law Journal*. He returned to Harvard to earn a Ph.D. in the History of American Civilization. After clerking for Chief Judge David L. Bazelon of the United States Court of Appeals for the District of Columbia Circuit and for Justice William J. Brennan, Jr. of the United States Supreme Court, Professor Post practiced with the Washington, D.C. law firm of Williams and Connolly as a litigator. He joined the Boalt faculty in 1983.

Professor Post is a member of the Board of Editors of *Representations*, and during 1993–1997 was chair of the Board of Governors of the University of California Humanities Research Institute at Irvine. In 1990 he received fellowships from the Guggenheim Foundation

The Lectureship is named in honor of John Dewey, American philosopher, educator, and scholar. A proponent of philosophy of legal realism, Dewey's philosophy of pragmatism related his conception of a moral life to a variety of contemporary social, economic, and political issues. Dewey lived from 1859 to 1952 and spent one year as a professor of philosophy at the University of Minnesota.

and the American Council of Learned Societies. He is a fellow of the American Academy of Arts and Sciences. From 1992 to 1994, Professor Post was General Counsel of the American Association of University Professors.

A specialist in the area of First Amendment Theory and constitutional jurisprudence, Professor Post is the author of several books and articles including *Constitutional Domains* (1995), co-editor of *Human Rights in Political Transitions: Gettysburg to Bosnia* (1999) and *Race and Representation: Affirmative Action* (1998), and editor of *Censorship and Silencing: Practices of Cultural Regulation* (1998), "Prejudicial Appearances: The Logic of American Antidiscrimination Law," (2000); "Defending the Lifeworld: Substantive Due Process in the Taft Court Era," (1998). ■

The Horatio Ellsworth Kellar Distinguished Visitors Program

Lawrence Lessig, Professor of Law at Stanford University Law School, presented the Horatio Ellsworth Kellar Distinguished Visitor lecture entitled, "Innovation & The Net," on February 22, 2001.



Lawrence Lessig

Professor Lawrence Lessig recently joined the faculty at Stanford University Law School. From 1997 to 2000, he was the Jack N. and Lillian R. Berkman Professor for Entrepreneurial Studies at Harvard University Law School. He was a Visiting Professor at Harvard Law School during the 1996-97 winter term and was a Fellow at the Harvard University Program on Ethics and the Professions during the 1996-97 academic year. Professor Lessig served as Professor of Law and Co-director of the Center for the Study of Constitutionalism in Eastern Europe at the University of Chicago Law School before joining Harvard's faculty. His public service activities include work with the Chicago Council of Lawyers and the Pro-Bono Advocates.

Professor Lessig received his J.D. from Yale Law School in 1989, a M.A. in Philosophy from Trinity College, Cambridge University in 1986, and a B.A. in Economics and a B.S. in Management from the University of Pennsylvania in 1983. In December of 1997, Professor Lessig was named Special Master of the

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 created an interdisciplinary lecture series that connects emerging issues in law with other disciplines such as art, drama and literature.

antitrust dispute between the United States Department of Justice and Microsoft Corporation by United States District Court Judge Thomas Penfield Jackson.

Professor Lessig's projects include a book on the law of cyberspace (viewing the law of cyberspace as a type of comparative constitutional law and exploring the significance of

problems that the regulation of cyberspace might present), an empirical study of judicial efficiency and reputation in the federal courts, and the development of an electronic casebook builder in the area of contracts.

Recent publications include: "The Erie-Effects of Volume 110: An Essay on Context in Interpretive Theory," (1997); "Reading the Constitution in Cyberspace" (1996); "Constitution and Code," (1997) and "Making Sense of the Hague Tribunal," (1996). ■

Court of Appeals for the Federal Circuit Visits Law School

On October 3rd, 4th, and 5th, 2000, three panels of the United States Court of Appeals for the Federal Circuit heard oral arguments in the Twin Cities, including arguments at the University of Minnesota Law School. Students were able to observe oral arguments before a lively panel comprised of Judges Newman, Rader and Michel. The cases argued

covered a range of issues involving utility patents, design patents, trademarks and environmental regulation. Following the arguments, Merchant and Gould law firm hosted an all-school reception. In the evening, the Law School hosted a dinner for the court with Intellectual Property law faculty and student leaders. ■

Class of 2000 Employment Report

| | |
|--|-----------|
| Total Grads | 241 |
| Total Seeking Employment | 223 |
| Total Employed | 221 (99%) |
| Total Other | 18 |
| <i>Full-time graduate students, or not seeking, or unknown</i> | |

Employment Categories

| | |
|---------------------|-----|
| Private Practice | 52% |
| Judicial Clerkships | 27% |
| Business | 10% |
| Government | 5% |
| Public Interest | 4% |
| Academic | 1% |
| Military | 1% |

Locations

Arizona, California, District of Columbia, Delaware, Florida, Georgia, Illinois, Kentucky, Massachusetts, Michigan, Minnesota, Missouri, North Dakota, Nevada, New York, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Wisconsin, Beijing, Moscow, Pakistan.

Minnesota 63%
Out-of-State 37%

Staff Recognition



Suzanne Thorpe

Congratulations to Suzanne Thorpe. She has been promoted to Associate Director for Faculty, Research and Instructional Services. Her responsibilities expanded to include an increased leadership role in the creation and delivery of services to support the research and scholarly concerns of the Law School community. In addition,

Professor Thorpe has been assigned lead responsibility for working with faculty to integrate electronic resources into all teaching and research activities. Professor Thorpe also has additional duties including a broader range of management responsibilities throughout the Law Library.

New Law School Staff

Abigail Gewirtz was appointed as a Senior Planning and Policy Associate (part-time) for the Criminal Justice Institute, beginning May 2001. She is a clinical psychologist with extensive experience conducting applied research in the areas of child and family exposure

to violence, and criminal and juvenile justice. In her position as Director of Operations at the National Center for Children Exposed to Violence at the Yale Child Study Center, she headed up a large-scale Department of Justice, Office of Juvenile Justice and Delinquency Prevention grant focusing on multi-system efforts to reduce the impact of exposure to violence on children and families in nine communities across the USA. She has also been principal investigator on projects investigating the incidence and impact of juvenile family violence, and on the behavior and functioning of HIV-affected adolescents in the juvenile court system. Ms. Gewirtz has a Ph.D. in Clinical Psychology from Columbia University, she received a Master's degree in Counseling Psychology from Tel Aviv University, and a B.S. degree in Psychology from the University of London.

of Staff to U.S. Senator Larry Craig in Washington, D.C., Office Manager to U.S. Senator Rudy Boschwitz in Washington, D.C., and Chief Administrator for the University of Iowa's School of Art and Art History in Iowa City. Ms. Mannes recently moved back to the Twin Cities, where she received her B.A. from the University of Minnesota in 1987.



Holly Miller

Holly Miller was appointed as Planning and Policy Analyst for the Criminal Justice Institute. She worked most recently as a Research Analyst Specialist with the Children's Services Administration at the Minnesota Department of Human Services. In that capacity, she was responsible for the collection, analysis, and reporting of data on child abuse and neglect in Minnesota as required by state and federal law. From 1997 to 1999, she was an Evaluation Specialist/Project Manager for a small Minneapolis-based company, Professional Data Analysts, Inc., where her work focused on the evaluation of state-funded programs, such as sexual violence prevention, fetal alcohol syndrome intervention and prevention, and family literacy programs. Ms. Miller received a Master's degree in Evaluation in Education from the Department of Educational Policy & Administration, University of



Dean's Annual Roundtable Luncheons

Every year, Dean Sullivan sponsors a luncheon speaker series for students to introduce them to outstanding members of the legal community in an informal setting. The guests speakers share past experiences and answer questions. This year the luncheon featured: Richard Kyle ('62), U.S. District Court Judge; Paul Anderson ('68), Minnesota Supreme Court Justice; Marianne Short, Dorsey and Whitney; Vance Opperman ('69), Key Investments Inc.; and Alan Page ('78), Minnesota Supreme Court Justice. Speakers who are pictured with students are; Edward Touissant, Chief Judge, Minnesota Court of Appeals; Amy Klobuchar, Chief Attorney for Hennepin County.



Karen Mannes

Karen Mannes has been selected as the Senior Administrative Director for both the Consortium on Law and Values in Health Environment & the Life Sciences and the Joint Degree Program in Law, Health & the Life Sciences. She supervises all staff and directs all administrative functions. Her past experience includes serving as Administrative Director and Deputy Chief

Minnesota and a B.S. in Economics and Finance from the University of Wisconsin-Madison.

Marsha Patten joined the Law School in the Law School Information Technology Service (LITS) Department as an Information Technology Specialist. Ms. Patten splits her time between the Law School Clinics and LITS. She previously worked in the Department of Chemical Engineering and Material Science and as a medical researcher in the Renal and Therapeutic Research Departments. Ms. Patten received her B.S. in Elementary Education from the University of Minnesota. She also is the Director for T.V. Productions of Chamber Music Minnesota, where they produce programs for national distribution to public schools through North-

west Community Television, a local access station.



Emily Shapiro

Emily Shapiro, appointed as Senior Planning and Policy Associate for the Criminal Justice Institute, came to the Law School from the Minnesota House of Representatives where she was a Legislative Analyst for over 20 years. In that capacity, she performed legal and policy research on criminal and juvenile justice issues, drafted

legislation for legislators on these topics and served as House Counsel to the Crime Prevention policy and funding committees. During her tenure with the legislature, Ms. Shapiro worked on such major topics as juvenile justice reform, sentencing law revisions, particularly regarding sexual assault and other violent crime and, most recently, recodification of the DWI laws. In addition to her work for the legislature, Ms. Shapiro has spoken at numerous Continuing Legal Education seminars concerning recently enacted state criminal and juvenile laws and has published many research and information reports for the House Research Department. Ms. Shapiro has a J.D. from Georgetown University Law Center and a B.A. from Brown University.

Brian Thorson has become the Information Technology Professional for the Consortium on Law and Values in Health Environment & the Life Sciences and the Joint Degree Program in Law, Health & the Life Sciences. He will be focusing on the Consortium and Joint Degree Program web programs, computers and audio video needs. He will split his time between those programs and the Law School Information Technology Service. Mr. Thorson recently received his B.S. in Computer Science from the University of Minnesota. He has also built his own business constructing websites and providing computer solutions for a range of clients. ■



The first-year women law students were welcomed to the Law School by members of Lex Alumnae during a January luncheon at the Holiday Inn Metrodome.

Legacies in Law

Johnson and Sons

“I didn’t encourage my son to go into law. The thing is, he grew up with a lawyer, and there’s a way a lawyer looks at things and talks about things, so when we talked about what he might do I told him to search for something that would give him self-fulfillment, because that’s the critical thing. To the extent that law could do that for him he could evaluate based on what he heard at home,” Robert W. Johnson said of his son, Robert M. A. Johnson. Not only did the younger Robert like what he heard at home enough to follow in his father’s footsteps in

deciding to study law, he also followed in his father’s career: both father and son have held the position of Anoka County Attorney. Robert W. from 1951–1982, and Robert M. A. from 1983 to the present. Furthermore, both Robert M. A. Johnson’s sons, Brad and Ben, are attorneys. Brad, who graduated from William Mitchell, is a litigation associate at Gray Plant Mooty and Ben, a 1999 graduate of the University of Minnesota Law School, recently moved with his wife Michele to Billings, Montana to work for Dorsey Whitney.

Ben remembers that his exposure to the legal world was very similar to his father’s experience. What he heard when he went to his grandparent’s house created for him an early interest in the legal world. “I was so much more aware of the political process than I might otherwise have been, especially at the state level, because they were both heavily involved with issues in the state, especially my grandfather, who was good friends with Governor Freeman. I think what I heard around the dining room table was a little unique, I don’t think people get that perspective growing up, hearing about the world of justice. Legal work has a lot to do with who my father and grandfather are; it’s in their fabric.”



Robert M.A., Robert W., and Ben Johnson.

Robert W. Johnson graduated from the University of Minnesota Law School in 1947. The following year, he received a two-year appointment as municipal judge to the city of Anoka by Governor Youngdahl. He has practiced law in Anoka since then, including thirty years as Anoka County Attorney. His son Robert M.A. came to work for him after he graduated from law school at Minnesota in 1968. From 1971–74, he worked in private practice and also for the Minnesota Attorney General’s office under Warren Spannaus. He returned to the Anoka County Attorney’s

office in 1974 as Chief Deputy County Attorney, was elected as County Attorney in 1982, and still holds that office today. Of his father, Robert M. A. Johnson said, “Dad’s always been a great example to follow, and he certainly taught me an enormous amount, by example and by being a mentor. The most valuable part of it for me was when I was the Chief Deputy and every morning we’d get together, go through the mail and talk about the significant issues. Dad’s always had an inquiring mind, and he often had ideas he’d come up with, and sometimes I thought they were really nuts, not worthwhile. My strategy was to ignore them, but if he brought up an idea the third time, I’d listen. He always encouraged disagreement and discussion on matters, he’d never tell me ‘that’s the way it’s going to be, because I’m the County Attorney and you’re not.’ I always felt great freedom to argue with him about things, we had some grand arguments, but once we’d finally decide on a course of action, I was happy to pursue it. I think he had, and still has, an incredible amount of wisdom about things. He has the ability to reach out to people. He taught me to see that people are a complex combination of things, and that even when we feel anger about a criminal case, we must look for the good in people, and always, always, do the right thing.” ■



Matthew and Paul Rockne displaying an impressive catch.

The Rockne Tradition

Matthew Rockne ('93) remembers walking down the halls of the University of Minnesota Law School library and seeing the familiar face of his grandfather, Melroy Rockne, in the graduation photograph of the class of 1926. He knew then that someday, after several years of practicing law in the Twin Cities, he would return to his hometown of Zumbrota, Minnesota, to practice law in the family firm that was founded in 1894 by his great-grandfather, Anton J. Rockne, also a graduate of the University of Minnesota Law School. His grandfather had worked at the firm while managing to be a representative in the state legislature for 44 consecutive years. Paul Rockne ('60), Matthew's father, followed in his father's footsteps and joined the firm after three years of active duty in the Air Force's Judge Advocacy General unit. Today, Paul and Matthew run the law firm in the community of 2500. Matthew changed his plans slightly and began to work with his father after one year of law practice in the Twin Cities. "I like the immediate contact with the clients that a small firm affords," Matthew said, "And I have my father here to provide me with guidance."

When Paul graduated from law school, "the Vietnam War was just getting cranked up, and the Cuban Missile Crisis occurred while I was on active duty." He remembers the confined quarters of Fraser Hall and Dean Lockhart with nostalgia.

Matthew said he did not feel any pressure to follow the Rockne tradition of the study and practice of law. In high school, he only thought of sports, but then earned a degree in electrical engineering and worked for IBM for a short time before deciding to go to law school. "I thought I'd get into patent law, but then started talking to my Dad about small town practice." He has decided that he prefers working with people on a more individual basis. "You can really help a person with a dilemma or problem, and it's a big deal to that person, it's helping a neighbor."

"Matt's had the experience of working in a metropolitan firm and comparing it to working in the only firm in town," Paul said. He added "We get along pretty well here, get a cross-section of legal issues. The practice of law is changing like everything else, and we try to stay in tune with those changes."

"If I have a problem I'm dealing with, I'll always bounce ideas off Paul. Obviously we're father and son, but it doesn't seem that way so much in the office," Matthew remarked, "I think we've got a pretty good relationship going on here." ■

The University of Minnesota Law School
Presents

The Twenty-Second Annual Summer Program of Continuing Legal Education

May 29–June 1 and June 4–8, 2001

Tuesday, May 29

M.B.A. Concepts for Lawyers
Professor Edward S. Adams

Wednesday, May 30

Trademarks, Copy and Related Intellectual Property Issues
Professor Daniel J. Gifford

Thursday, May 31

The Law of Elections (including *Bush v. Gore*)
Professor Guy Charles

Friday, June 1

Ethics Beyond the Rules* and
Bias in the Courtroom and Bias in the Law Office**
Professor Maury Landsman

Monday, June 4

International Estate Planning Highlights:
Traps and Tips for the Practitioner
Barbara R. Hauser, Visiting Scholar of Law

Tuesday, June 5

Fair Housing/Fair Share (working title)
Professor John A. Powell

Wednesday, June 6

State and Local Taxation and Finance
Professor Ferdinand P. Schoettle

Thursday, June 7

Concepts in Entrepreneurship
Professor Edward S. Adams

Friday, June 8

Cutting-Edge Issues in Employment Law: With a Special
Focus on the ADA and the FMLA
Professor Stephen F. Befort

5.0 CLE credits have been requested for Ethics Beyond the
Rules and Bias in the Courtroom & Bias in the Law Office
6.5 CLE credits have been requested for all other seminars

*Ethics Credits Requested (3 hours)

**Elimination of Bias Credits Requested (2 hours)

For Further Information: e-mail
stine005@umn.edu or call 612/625-8086.

Distinguished Alumni

Joseph T. Carter

Class of 1983

Joseph T. Carter was appointed to the First Judicial District bench by Governor Ventura in February 2001. He is the first person of color to serve as a judge in the district. Judge Carter earned his B.A. degree from Brandeis University in 1979 and a Masters of Social Work in 1980 from Barry University School of Social Work. He received his J.D. degree in 1983 from the University of Minnesota Law School, where he was a member of Delta Theta Phi Law Fraternity. While in law school, Judge Carter participated in the National Moot Court Competition and was a member of the Black American Law Student Association.



Joseph T. Carter

Judge Carter became a Staff Attorney at Southern Minnesota Regional Legal Services following graduation from law school. He served as an Assistant County Attorney for Scott County from 1985 to 1986, where he primarily prosecuted criminal juvenile cases. Judge Carter represented clients in divorce, bankruptcy and criminal matters at Hyatt Legal Services beginning in 1986. He then worked as an Assistant Public Defender for the Second

Judicial District from 1987 to 1996 and as a Supervisor until 1998. In 1998, he was selected as Chief Public Defender for the First Judicial District. As the chief administrator for public defense in that district, he managed and directed forty-five assistant public defenders.

Judge Carter serves on the following committees: the Minnesota Supreme Court Jury Task Force, both Dakota and Carver Counties Victim Justice Councils, Dakota County Intermediate Sanctions Task Force, and Ramsey County Bar Association Executive Council. He is a member of the Minnesota State Bar Association and the Minnesota Association of Black Lawyers. Judge Carter also has been a Mock Trial Attorney Teacher at Eastview High School for the past three years.

He has been a speaker for Continuing Legal Education seminars on a variety of topics including: Search Warrants, Bias in Jury Selection, Drugs Lies & Videotapes, and Minorities in The Legal Profession.

Carolyn Chalmers

Class of 1977

Carolyn Chalmers was appointed by University President Mark Yudof as Grievance Officer for the University of Minnesota on October 2, 2000. She manages the internal dispute resolution system for employment disputes, except bargaining unit disputes covered by union contract, at one of the largest employers in Minnesota. The University Grievance Policy gives student, civil service, professional and administrative, and faculty employees rights to grieve employment decisions that are contrary to University policy.



Carolyn Chalmers

Ms. Chalmers received her J.D. degree *cum laude* from the University of Minnesota Law School in 1977. She also has a B.A. degree with distinction in English literature from Carleton College, *magna cum laude*, *Phi Beta Kappa* and an M.A. degree in Anthropology from Brandeis University.

Ms. Chalmers practiced employment discrimination litigation for 17 years—at Pepin Dayton Herman & Graham

where she became a partner in 1981 and later at the Leonard Street & Deindard law firm where, as a partner, she served on the Executive Committee and chaired the Employment Department. She has been lead litigation counsel for plaintiff classes in discrimination cases as well as for employers defending class complaints and implementing consent decrees. She has extensive experience in sex discrimination, sexual harassment and academic employment litigation. For several years Ms. Chalmers has been selected by the American Research Corporation as a Leading Minnesota Attorney in Employment Law and more recently in the area of Alternative Dispute Resolution (ADR): Employment Law. She enjoys Martindale-Hubbell's highest rating, based on evaluations by her peers, for both legal ability and professionalism.

Ms. Chalmers has represented clients in scores of mediations since the early 1980s. She is a qualified neutral under Rule 114 of the Minnesota General Rules of Practice and since 1994, has practiced as a neutral in employment matters. She serves as a mediator in employment disputes, conducts fact-finding investigations of sexual harassment and other discrimination complaints, and provides consultations to attorneys and parties in litigation. She was appointed as a Visiting Professor at the University of Minnesota Law School for the fall semester 1995 where she taught upper level courses in employment discrimination law and ADR. She is a frequent speaker at continuing legal education seminars. She is frequently asked by litigation counsel to assist clients who can benefit from the

services of a skilled, independent neutral. Ms. Chalmers has been selected by her peers as a Leading Minnesota Lawyer in the area of Employment Alternative Dispute Resolution.

Michael J. Galvin, Jr. Class of 1957

Michael J. Galvin, Jr. is a shareholder in the firm of Briggs and Morgan. He is based in the St. Paul office and is a member of the firm's Labor and Employment Law Section. He practices principally in the areas of labor, municipal, condemnation and employment law.



Michael J. Galvin, Jr.

Mr. Galvin served in the United States Air Force during the Korean Conflict and was discharged as a First Lieutenant. He received his B.A. from the University of St. Thomas and his law degree from the University of Minnesota Law School, where he was a co-founder of the University of Minnesota Law School Student Aid Clinic. He joined Briggs and Morgan in 1957.

He has tried cases in state and federal Courts and appeared before many administrative agencies both in Minnesota and elsewhere. Mr. Galvin has argued cases before the Minnesota Supreme Court and the Eighth Circuit Court of Appeals. Using his litigation experience, he regularly counsels employers on discipline and discharge issues, litigation prevention and assessment. He frequently provides training to managers and employers on labor law issues, such as union campaigns for recognition, negotiation of collective bargaining agreements, unfair labor practices, and administration of labor contracts, including mediation and arbitration of labor disputes. In addition, Mr. Galvin is on the Neutral Roster as an arbitrator and mediator for the Minnesota Supreme Court.

Mr. Galvin organized the first Briggs and Morgan Annual Client Labor and Employment Law Seminar in 1983 and also has participated in all of the seminar programs since then. He appears regularly at Minnesota Continuing Legal Education seminars and is sought out as a speaker before industry groups on matters of employment law and labor law. He has been designated a "Super Lawyer" by *Minnesota Law & Politics*, *Mpls-St Paul Magazine* and *Twin Cities Business Monthly*. This group represents the top five percent of Minnesota lawyers. Mr. Galvin also served as Chair of the University of Minnesota Law School Board of Visitors in 1999–2000 and is currently the National Chair of the University of Minnesota Law School's "Partners in Excellence" program.

Mr. Galvin is past Chair of the Labor and Employment Law Section of the Minnesota State Bar Association and has been active in that Section of the American Bar Association. He has a long history of activity with the Bar Association and is past

president of the Ramsey County Bar Association and past president of the Minnesota State Bar Association. Currently, he is the past Chair of the Saint Paul Area Chamber of Commerce, a Director of the Riverfront Development Corporation Board and is Past President of the Saint Paul Junior Chamber of Commerce, Minnesota Club, University Club, Saint Paul Athletic Club, and Saint Paul Winter Carnival Association. He is currently a trustee of the College of Saint of Catherine. He was also selected as a Distinguished Alumni of the Year by the University of St. Thomas and served as a trustee of the University of St. Thomas.

Mr. Galvin is married to Frances Culligan and they have seven children, two of whom graduated from the University of Minnesota Law School.

Michael Hatch Class of 1973

Mike Hatch was elected Attorney General for the State of Minnesota in November 1998. At the beginning of June 1999, Mr. Hatch broadened his consumer advocacy efforts by becoming the first Attorney General in the nation to file two federal privacy lawsuits. By the end of June 1999, the first step in creating consumer privacy safeguards for Minnesotans began when US Bank settled with the state by agreeing not to disclose customer's private information to third parties, such as telemarketers, for purposes of marketing non-financial products and services. Member Works also settled with the state in April 2000, promising to change its business practices.



Michael Hatch

Mr. Hatch earned a B.A. degree in political science, with honors, from the University of Minnesota-Duluth in 1970. He received his J.D. degree from the Law School in 1973 and went into private practice. He served as Chairman of the Minnesota Democratic-Farmer-Labor party from 1980 to 1983 and Minnesota Commissioner of Securities and Real Estate in 1983. As Minnesota's Commissioner of Commerce from 1983

to 1989, he was the primary regulator of banks, insurance companies, securities and real estate firms conducting business in Minnesota. Hatch streamlined the Commerce Department, resulting in saving nearly one-half million dollars annually. Mr. Hatch received national attention for his work in the areas of medical malpractice coverage, corporate takeovers and insurance coverage issues.

Prior to being elected Attorney General, while Mr. Hatch was an attorney in private legal practice, he developed a national reputation for representing dozens of breast cancer and other patients who were denied access to bone marrow transplants and other lifesaving medical treatment by their

HMO's and health plans. In 1995, Hatch successfully lead an effort to require health plans to provide bone marrow transplant coverage for women with breast cancer.

John D. Hutson

Class of 1972

John D. Hutson is the Dean of Franklin Pierce Law Center in Concord, New Hampshire. He joined the Law Center on July 10, 2000. Dean Hutson retired from the Navy in June 2000 with the rank of Rear Admiral, having served as Judge Advocate General since 1997.



John D. Hutson

Dean Hutson was commissioned in the United States Navy upon graduation from Michigan State University in 1969. He received his J.D. degree from the University of Minnesota Law School in 1972. Upon admission to the State Bar of Michigan, he attended the Naval Justice School in Newport, R.I. Dean Hutson was assigned to the Law Center in Corpus Christi, Texas in 1973, where he served as Chief Defense Counsel and Chief Trial Counsel. He was

transferred to the Naval Air Station in Point Mugu, California in 1975 and served as the station legal officer for two years before returning to Newport to instruct civil law, procedure and evidence at the Naval Justice School.

Dean Hutson earned a Master of Laws degree in labor law from Georgetown University Law Center in 1980 and was then assigned as a legislative counsel in the first of three tours in the Office of Legislative Affairs for the Navy. In 1984, he was assigned to the Portsmouth Naval Shipyard in Kittery, Maine, where he served both as Staff Judge Advocate and Administrative Officer.

He assumed duty as Executive Officer of the Naval Legal Service Office, Newport, Rhode Island, in 1987. He returned to Washington, D.C. to serve as Staff Judge Advocate

and Executive Assistant to the Commander, Naval Investigative Command.

In August 1989 Dean Hutson moved to the Office of Legislative Affairs as Director of Legislation. Between October 1992 and November 1993, he was assigned as the Executive Assistant to the Judge Advocate General of the Navy. In November 1993, he resumed duty in the Office of Legislative Affairs. He assumed duty as Commanding Officer, Naval Service Office in Europe and Southwest Asia, located in Naples, Italy, in August 1994. Dean Hutson returned to the Naval Justice School as Commanding Officer in July 1996. He was promoted to the rank of Rear Admiral and assumed duties as the Judge Advocate General of the Navy in May 1997. He also served as the DOD/JCS Representative for Ocean Policy.

Dean Hutson was awarded the Distinguished Service Medal, the Legion (with three gold stars), Meritorious Service Medal (with two gold stars), Navy Commendation Medal and Navy Achievement Medal. ■



Class of 1950 Reunion

Class Notes

1954

Bernard Friel's was inducted as an honorary member into the American College of Bond Lawyers. Friel is a shareholder at Briggs and Morgan law firm and concentrates his practice in corporate law, municipal finance, government and higher education.

Honnen Weiss was selected by his peers for inclusion in the *Best Lawyers in America 2001–2002*. Weiss practices with the law firm of Felhaber, Larson, Fenlon & Vogt in the areas of trusts and estates.

1958

William E. Mullin was awarded the Hennepin County Bar Association Family Law Section's 2000 Civility and Professionalism Award. The award is bestowed annually to recognize family law attorneys who maintain high standards of practice, civility and public service. Mullin is a litigation partner at the Minneapolis law firm, Maslon Edelman Borman & Brand.

Thomas Vogt from Felhaber, Larson, Fenlon & Vogt law firm was selected by his peers for inclusion in the *Best Lawyers in America 2001–2002*. Weiss practices in the areas of labor and employment law.

1960

Edward Weiss was selected by his peers for inclusion in the *Best Lawyers in America 2001–2002*. Weiss practices with the law firm of Fel-

haber, Larson, Fenlon & Vogt in the areas of labor and employment law.

1972



Philip S. Garon

Philip S. Garon was named chairman of Faegre & Benson law firm's Management Committee. Garon is a partner in the Corporate Finance Group.

Daniel Walseth was named secretary and general counsel by the Lutheran Brotherhood board of directors.

1974

Allen W. Hinderaker has joined the law firm Merchant & Gould. Hinderaker was previously with Hinchshaw & Culbertson law firm. His areas of practice include intellectual property litigation, commercial litigation and professional liability litigation.

1975

Dennis J. Redwing was appointed to a district court judicial seat by North Carolina Governor Jim Hunt. Redwing has been a deputy city attorney for the city of Gastonia, North Carolina since 1992.

Correction

Class of 1924—Lewis W. Solomon's name was inadvertently misspelled in the 2000 Fall issue.

1978

Todd I. Freeman has been named a Super Lawyer by his peers in the practice categories of closely-held business, health, tax and estate planning. The designation appeared in *Minnesota Law & Politics* magazine.

1980

Dave Kastelic was named senior vice president and general counsel of Cenex Harvest States Cooperatives located in Inver Grove Heights, Minnesota.

Pamela Olson was named deputy assistant secretary (Tax Policy) for the U.S. Department of the Treasury. At Treasury, she has supervisory responsibility for the legal advice and analysis provided by the Office of Tax Policy with regard to all aspects of domestic and international issues of Federal taxation, including legislative proposal, regulatory guidance, and tax treaties.

Prior to her appointment as deputy assistant secretary, Olson was a partner at the law firm Skadden, Arps, Slate, Meagher & Flom in Washington D.C.

1981

Gregory S. Madsen joined the law firm of Rider, Bennett, Egan & Arundel. He will be member of the Education Law Group, which provides comprehensive legal services to educational institutions.

1982

Kathleen Hvass Sanberg has been appointed to the Minnesota Tax Court by Governor Ventura. Sanberg was a partner in the Minneapolis law firm of Faegre & Benson.

Judith Martin Ventres joined the Gray Plant Mooty law firm. Ventres practices primarily in tax planning and return preparation, compensation, stock option and

Class of 1960 Reunion





Class of 1970 Reunion

family wealth planning, wills trusts and probate, as well as charitable gifting, in the Financial and Estate Planning Practice Group.

1983

B. Todd Jones has returned to Greene Espel law firm after serving as United States Attorney in Minnesota. Jones will serve business clients in complex commercial disputes, leading them through uncharted areas of law and technology.

Mary Vasaly has been appointed as a charter member of the Executive Board of the Council of Appellate Lawyers. Vasaly is a partner and a member of the Appellate Law Team at Maslon Edelman Borman & Brand law firm, where she focuses her practice in the areas of appellate law and commercial litigation.

1987

Gary A. Debele, a shareholder with the law firm of Walling & Berg, was recently selected by his peers for membership in The Best Lawyers in America. He was also recently elected president of Walling & Berg.

Gregory Galler was recently appointed to the district court bench in Elk River, Minnesota.

1988

Susan D. Lenczewski rejoined the law firm Gray Plant Mooty, practicing primarily in the Employee Benefits and Executive Compensation Practice Group. For the past six years, she has served as senior counsel and corporate secretary for Enbridge (U.S.) Inc., an oil and natural gas pipeline operator based in Duluth, Minnesota.

Maura O'Connor authored an 1998 article entitled "The Ten Commandments for Lenders Reviewing Leases," that has been included as Chapter 5 of a newly published ABA book *The Commercial Property Lease, Vol. III* (edited by Professor Patrick Randolph, Jr. of University of Kansas City Law School).

1989

Jon Kirk Hoppensteadt has been nominated for inclusion in *Marquis Who's Who in the World, 19th Edition, 2002* as well as *Marquis Who's Who in America, 56th Edition, 2002*. He has also been nominated for *Marquis Who's Who in Finance and Industry, 32nd Edition, 2001-02*. He has been in *Marquis Who's Who* publications since 1994 because of his national and international

work developing the accessibility of practical materials in law and public libraries for survivors of crimes, their advocates, and their lawyers. He also has had some success with bringing in corporations into his efforts.

1991

Neil P. Ayotte joined Innuity Inc. as vice president, general counsel and secretary. Innuity Inc. is a single source provider of e-commerce services to small-businesses and channel partners seeking to Web enable their customer bases. Ayotte was a partner at the Minneapolis law firm Maslon Edelman Borman & Brand where he practiced in the firm's corporate finance group.

1992

Chris Bercaw was named a partner at Dorsey & Whitney in Minneapolis. He and his wife, Mary McKelvey, currently reside in Brussels, Belgium, where he practices international business law and Mary teaches English. They expect to return to Minneapolis in summer 2002.

Class of 1975 Reunion



Peter R. Jerdee

Peter R. Jerdee joined the Foster Pepper & Shefelman law firm as an associate, practicing in the Seattle office. His litigation practice focuses on securities law (class action defense and other), antitrust, intellectual property, professional liability defense, bankruptcy-related litigation and various breach of contract actions. Prior to joining Foster Pepper, Jerdee was an associate at Fried, Frank, Harris, Shriver & Jacobson in New York.

1993



Andrea J. Bernard

Andrea J. Bernard was recently admitted into the partnership of Warner Norcross & Judd law firm, and she concentrates her practice in the area of commercial and employment litigation.



Lori L. Gibson

Lori L. Gibson was recently admitted to the partnership of the law firm Warner Norcross & Judd, where she focuses her practice on employment law and litigation of employment and commercial matters.

Kristen Jones-Pierre was recognized as one of ten Up and Coming Minnesota Attorneys by *Minnesota Lawyer*. *Minnesota Lawyer* selects 10 young lawyers who have significantly contributed to the legal community—either through undertaking a leadership position, trying a significant case or undertaking a major pro bono commitment.

Charles E. Long joined the Rider, Bennett, Egan & Arundel law firm practicing in the Education Law Group.

Jill LeBow Prohofsky is a managing attorney at Catholic Charities Law Center in St. Paul, Minnesota.

Christopher Yetka was named a partner of Lindquist & Vennum law firm.

1994

Chris Braeske announced the opening of his law practice, The Law Offices of Christopher M. Braeske, in October 2000. His office is located in Clayton, Missouri where he practices in the areas of juvenile, family and criminal law. In addition, he serves as a permanent guardian ad litem for the St. Louis County Family Court. He and his wife, Stacy Brown ('94) reside in St. Louis, Missouri with their children, Henry, 3 and Ethan, 1.

Stacy Brown joined the legal department of Deutsche Financial Services in January 2000 as senior counsel. She and her husband, Chris Braeske ('94), reside in St. Louis, Missouri with their children, Henry, 3 and Ethan, 1.

Patrick A. Hrbacek joined law firm of Holland & Hart in Denver, Colorado in the Business Department, specializing in corporate securities law.

Michael J. Kane was named a principal at Fish & Richardson law firm.



Class of 1980 Reunion

Daniel R. Kelly joined Felhaber, Larson, Fenlon & Vogt law firm in the Minneapolis Office. Kelly represents businesses and individuals in commercial and civil litigation and provides general business advice.

1995

Michael D. Burville has joined the law offices of Otten & Associates. He practices in the areas of business, real estate, wills and estate planning, and family law.

Allen Hagen has joined the law firm of Foley & Lardner in San Francisco, California.



Melissa A. Hortman

Melissa A. Hortman has joined the law firm Rider, Bennett Egan & Arundel as a member of the Litigation Department. Hortman practices in the areas of employment litigation and personal injury litigation. Prior to

joining Rider Bennett, she worked at Central Minnesota Legal Services, which provides legal assistance to low income members of society.

1996

Michael G. Atkins joined the Seattle law firm of Graham & Dunn as an associate in its commercial and financial litigation department, where he will continue his practice in commercial litigation, intellectual property litigation, and antitrust litigation. Atkins previously practiced with Badgley-Mullins Law Group in Seattle.

Jeffrey Diebel is a Legislative Analyst for the Minnesota House of Representatives Research Department. He was formerly with the law firm of Oppenheimer, Wolff & Donnelly.

Ryan Hoch is a member of Lindquist & Vennum's Corporate Business Section. Hoch joined Lindquist & Vennum from Arthur Andersen's business tax practice, where he focused on mergers and acquisitions.

Erica McGrady joined the law firm of Akin, Gump, Strauss, Hauer & Feld in Virginia. McGrady was previ-

ously with Benesch Friedlander Coplan & Aronoff law firm in Cleveland.

Nadeem A. Siddiq joined the Toronto office of the law firm Donohue Ernst & Young, the affiliate law firm of Ernst & Young International in Canada. He is a member of the Financial Services Group and practices general corporate/commercial law with an emphasis on corporate finance. In addition, Siddiq co-authored two papers, the first entitled "Secured Lenders and Realization of Trade-Marked Inventory" in *15 N.C.D. Rev 33* (2000) (co-authored with Alison Manzer), and the second entitled "Securing Interests in Copyrights," (co-authored with Leonard Glickman and Michelle Lee) delivered at The Canadian Institute Commercial Loan Finance and Security Conference, in Toronto, Canada in January, 2000.

Amy J. Swedberg joined the law firm of Maslon Edelman Borman & Brand as an associate. She practices in commercial law and is a member of the firm's financial services team, focusing her practice in the areas of banking and financial services, creditor's rights and bankruptcy, secured lending and real estate lending.

Paul J. Yechout joined Gray Plant Mooty law firm and practices in the area of labor and employment law. He represents employers in all aspects of employment law, including both litigation and counseling.

1997

Stephen Tight joined the Minneapolis office of Fredrikson & Byron, where he practices in the finance and securities and commercial transactions service areas.

DeGalynn Wade was recently selected, from hundreds of nominations, as the first recipient of the Minnesota Vikings/NFL Community Quarterback award for her volunteer work with the Page Foundation. Ms. Wade is a staff attorney in the Family Law Unit at the Southern Minnesota Regional Legal Services St. Paul Central Office.

Jennifer Wilson is an associate at the law firm of Leonard, Street and Deinard.

1998

Robert J. Heinrich joined Mayer, Brown & Platt law firm in Chicago, Illinois.

David R. Moeller has joined Farmers' Legal Action Group, Inc. (FLAG) as a staff attorney. FLAG is a non-profit law center based in St. Paul, Minnesota dedicated to providing legal services to family farmers and their rural communities in order to help keep family farmers on the land.

Dennis R. Weirens joined the law firm of Maslon Edelman Borman & Brand as an associate, where he practices commercial law and is a member of the firm's Corporate and Securities Law Group.



Class of 1990 Reunion

1999

Meg Galvin joined Maslon Edelman Borman & Brand law firm as an associate, where she practices in the firm's Litigation Group.

Robert L. Smith recently became an associate at Leonard, Street and Deinard law firm.

2000

Carousel Andrea Bayrd joined the law firm of Traub & Traub, where she specializes in plaintiff's employment discrimination.

Nicholas Boebel joined Robins, Kaplan, Miller & Ciresi law firm as an associate.

Paul D. Chestovich joined the law firm of Maslon Edelman Borman & Brand as an associate, where he practices in commercial law and is a member of the firm's Corporate and Securities Team.

J.J. Kuhn joined Gray Plant Mooty law firm and practices in the area of business law.

Jon K. Lauck won the American Agricultural Law Association Award for Excellence in Professional Scholarship in Agricultural Law with his article, "Toward an

Agrarian Antitrust: A New Direction for Agricultural Law," which appeared in the *North Dakota Law Review*.

James D.H. Loushin joined the law firm of Faegre & Benson in the Banking Group.

John S. MacEachern joined the Tax Group of Faegre & Benson law firm.

Shannon Melanie Magill was named an associate at Littler Mendelson law firm.

Christopher M. McCullough joined the law firm Gray Plant Mooty and practices in the area of reorganization and bankruptcy.

Kerry Jensen Olson joined Gray Plant Mooty law firm, where she practices in the area of franchise.

David Scouton joined Meshbesh & Spence law firm, where he works as a research attorney.

Erin K. Turner joined Faegre & Benson law firm and practices in the Business Litigation Group.

Ryan Vandewiele joined Leonard, Street and Deinard as an associate in the corporate department. ■

In Memoriam Tributes

Susan Sullivan Remembered

Susan Adora Moxon Sullivan, wife of University of Minnesota Law School dean E. Thomas Sullivan, died on January 10 of ovarian cancer, ten days before her 52nd birthday. A Celebration of Life and Friendship was held for Susan at the University's Gateway Center and was attended by many of her family, friends and colleagues.



Susan Sullivan

Among those celebrating Susan's life was friend and past colleague, David Becker from the Washington University School of Law. Recently, he remarked that "Susan was the kind of person who goes through life in a committed way. Committed to ideals, to friends and to work, and in doing so she uplifted people in many different ways. I think it will be very difficult for me to ever feel sorry for myself after seeing Susan's strength and exuberance in respect to life. It was something that had a profound impact on my life and me and something I hold to daily. There's hardly a day my wife Sandi and I don't think of her, and always in a positive way."

Ann Dimock, who met Susan through their common experience of cancer, said, "I think about her every day. She was a special friend. We both agreed that if we hadn't had cancer at the same time, we wouldn't have had the opportunity to know each other, and as bad as cancer is, there were these moments of unexpected pleasure that cancer could bring into your life, and to some extent, for Susan and I, it was each other. Watching Susan go through her death, reading the postcards and notes she sent me in which she told me how happy she was to have what she had in her life, gives me more courage to consider the same in my life. She was a great teacher that way, a very great teacher."

Susan Sullivan was a nationally recognized leader in legal career counseling, recruitment and job satisfaction. Her Ph.D. degree dissertation was on the psychology of job satisfaction. Her career in the legal profession began in the 1970s. For five

years she was the Director of the Career Planning and Placement Center at Georgetown University Law Center. While there, she developed in 1975 the first program at any law school for first-year law students on job search strategy and career satisfaction.

In 1983 Susan earned her Ph.D. Degree from the University of Missouri-Columbia, after which she served for six years as Assistant Dean at Washington University School of Law in St. Louis. While at Washington University she also served in 1987-88 as President of the National Association for Law Placement, a nonprofit organization of the 175 law schools and more than 1000 legal employers throughout the United States.

Her contributions to the NALP were widely regarded as extraordinary. Lujana Wolfe Treadwell in an article that appeared in the NALP Bulletin, said "Susan was a consummate professional who was committed to service, a very student-oriented career advisor who also understood and respected the needs of legal employers and of law schools as institutions. She was the ideal person to lead the NALP!"

In April 1996 Susan was diagnosed with ovarian cancer. Since that time she devoted her energy and support to other cancer patients and their families. She served as volunteer facilitator for the "Life Enhancement Support Group" for gynecological cancer patients at Fairview-University Hospital in Minneapolis.

Susan's last wish was to have memorials sent to the Sparboe Endowed Chair in Women's Cancer Research, which is administered through the Minnesota Medical Foundation and supports the work of obstetrics, gynecology and women's health at the University of Minnesota Medical School.

Susan is survived by her husband, E. Thomas Sullivan, her mother Margaret Moxon, and her brother Keith. She will be missed by all who were touched by her life, including those of us in the Law School community. ■

Harold E. Stassen Class of 1929

Harold E. Stassen died March 4, 2001 in Bloomington, Minnesota at the age of 93.

Mr. Stassen graduated from the University of Minnesota Law School in 1929 and was elected Dakota County Attorney one year later in 1930. He was elected Governor of the State of Minnesota in 1938 and nicknamed “the wonder boy” because he was the youngest governor elected in United States history. He supported a civil service policy that effectually eliminated political patronage and he created the 30 day “cooling off period” to help resolve labor disputes. Governor Stassen was re-elected in 1940 and 1942.

At the Republican National Convention in Philadelphia, he encouraged voters to become involved in the World War II during his keynote speech. He resigned from office in 1943 to join the Navy, where he became a top aide to Admiral William “Bull” Halsey, commander of the South Pacific fleet. Mr. Stassen was put in charge of the Navy’s prisoner evacuation program in Japan. He was decorated three times and awarded six major battle stars. President Franklin Roosevelt sent Mr. Stassen to San Francisco as part of the United States delegation to try to draft a charter for the UN in 1945. Mr. Stassen was the last surviving signer of the UN Charter.

In 1948, Mr. Stassen narrowly lost the Republican Presidential nomination to New York Governor Thomas Dewey. Mr. Stassen then became President of the

University of Pennsylvania in late 1948. He again ran for the Republican Presidential nomination in 1952, but later though his support to General Eisenhower.

Mr. Stassen served in the Eisenhower administration for five years. He held many positions, including member of the National Security Council, Special Assistant to the President for disarmament policy and chief negotiator at the London arms-control conference. He left the Eisenhower Cabinet in 1958 and went into private practice.

He ran unsuccessfully for governor of Pennsylvania and mayor of Philadelphia and moved back to Minnesota in 1978. Mr. Stassen continued to pursue his commitment to public service by campaigning for president in 1962, 1968, 1976, 1980, 1984, 1988 and 1992.

Mr. Stassen was predeceased by his wife, Esther Glewwe Stassen, who died in October 2000. The Stassens are survived by their two children, Glen Harold Stassen of Pasadena, California, a Professor of Christian Ethics at Fuller Theological Seminary, and Kathleen Esther Berger of Manhattan, the head of the Social Sciences department at Bronx Community College; seven grandchildren; and four great-grandchildren. ■

Eugene A. Burdick Class of 1935

Eugene Allan Burdick passed away November 4, 2000 at the age of 88. He was North Dakota’s senior licensed attorney and longest serving judge.

Judge Burdick earned his Juris Doctorate degree in 1935 from the University of Minnesota. He returned to Williston, North Dakota to practice law. He was appointed to the district court bench in 1953, where he served until he retired in 1978. Upon retirement from the bench, he was appointed to serve as a surrogate judge by the North Dakota Supreme Court.

Judge Burdick was awarded the North Dakota National Leadership Award by Governor William L. Guy in honor of his service at the national level. He represented North Dakota as a member of the National Conference of Commissioners on Uniform State Laws (NCCUSL) until his death. He held various chairmanships in NCCUSL including national president from 1971 to 1973.

He was a grammarian and an editor. Judge Burdick was the Chairman of the Committee on Style for over 25 years. He took on major drafting assignments for the State of North Dakota, writing Rules of Civil Procedure; Rules of Court for the District Courts of North Dakota; Pattern Jury Instructions of the Judicial Council and Revised Dakota for the preparation of the Bench Book for the trial courts of North Dakota. He also served on the Conference of Division of Judicial Administration of the American Bar Association in drafting the Appellate Opinion-Writing Manual and served as Judicial Counsel Advisor to the Subcommittee of Legislative Research Committee on Judiciary and Code Revision, in charge of editing and publishing the North Dakota Century Code.

Judge Burdick was the last survivor of the prominent

North Dakota immediate family of Usher L. Burdick and Emma C. Burdick, a family of statesmen and lawyers. His father, brother and sister were all alumni of the University of Minnesota. He is survived by his wife, May; children, William Burdick, Minneapolis, and Elizabeth Burdick Cantarine, Sarasota, Florida; and four grandchildren: Mary Burdick, San Francisco, California, Christopher Cantarine, Clifton Park N.Y., Robert Burdick, Minneapolis, and Anthony Cantarine, Sarasota, Florida. ■

J. Jerome (Jerry) Plunkett Class of 1949

J. Jerome Plunkett died at his home in St. Paul of congestive heart failure. He was 76.

Judge Plunkett received his law degree from the University of Minnesota Law School in 1949. Prior to attending law school he joined the armed forces and fought in the invasion of Normandy and the Battle of the Bulge. He was awarded a Purple Heart and a Bronze Star. After law school, Judge Plunkett went to work at West Publishing Company as an editor. He then served as a Saint Paul Assistant City Attorney from 1952 until 1954 when he was appointed a Saint Paul Municipal Judge by Governor C. Elmer Anderson. In 1967, Judge Plunkett was appointed a District Court Judge by Governor Harold P. LeVander.

He is survived by his wife, Patricia; sons, John of Sunfish Lake, Tim of St. Paul, Paul

and Michael of Mendota Heights; daughters, Ann Marie Musielewicz of St. Paul, Peggy Lyden of Woodbury and Marnie Olson of Danbury, Connecticut; 13 grandchildren, and one great-granddaughter. ■

Warren Christianson

Class of 1949

A Special Tribute to a Classmate and Friend

By Judge Noah Rosenbloom

Warren Christianson was the only student who completed his legal education while resident aboard a boat on the River Flats below Comstock Hall. As a teenager, he had worked aboard fishing craft operated by his uncle off the North Shore of Lake Superior. While an undergraduate at the University of Minnesota, he joined the Air Force, was distinguished in his service overseas and completed his tour of duty at Wright Patterson Air Force Base. During his time there, he found a farmer with a supply of suitable hardwood lumber and some building space, and built a boat from a hand-drawn sketch he had made. He made his way to Minnesota through various waterways until he arrived at the mooring below the University. In the spring of 1947, I first met Warren when I accompanied a *Minnesota Daily* reporter and photographer who were at the river to record his arrival.

Warren worked six days a week, operated the dump mechanism on barges and moored them to the towboat for the trips up and down river. He recruited me and

other friends to help. It was through working with Warren on Friday and Saturday evenings that I got to know him and learn of his experiences in World War II.

With his wife, child, and others, Warren took cruises in the boat until finally settling in Sitka Bay, Alaska, where he set up shop as a general practitioner, and continued to reside until his death last October. ■

Warren Eastlund

Class of 1951

Warren Eastlund died of cancer at the age of 76 on November 5, 2000.

Mr. Eastlund received his law degree from the University of Minnesota Law School in 1955. He was a cofounder of the Eastlund, Solstad, Cade & Hutchinson law firm in Minneapolis, practicing in the areas of estate planning, probate and commercial law. Mr. Eastlund was a member of the Board of Trustees and served as legal counsel at Bethel College for 20 years. He assisted with the growth and development of the College during his tenure there. He also taught business law at Bethel and the University.

He is survived by his wife, Valerie; four daughters, Karin Blomquist of Chaska, Kathleen Bjork of Fergus Falls, Karna Haugen of Victoria and Kristine Koenigsberg of Plano, Texas; four sisters, Verna Larson of Champlin, Phyllis Hanson of Cambridge, Beatrice Thurnstrom of Cambridge, Joanne Gustafson of Turlock, California; and 10 grandchildren. ■

Fred Norton Class of 1955

Fred Norton died of bone cancer at his home in Marine on St. Croix on October 28, 2001. He was 72.

Mr. Norton received his law degree from the University of Minnesota Law School in 1955. He went into private practice after law school and then began his public service career. He served for 10 years as an Assistant Attorney General. Judge Norton was elected to the Minnesota House of Representatives in 1966 and was re-elected through 1986. He was elected Speaker of the House two non-consecutive years in 1980 and 1987, the first person in state history to hold such an honor. In 1987, Governor Rudy Perpich appointed him to the Minnesota Court of Appeals, where he served until his retirement in 1997.

He is survived by his wife, Marvel; daughters, Cynthia Norton Tocho of Sunfish Law and Katharine Norton of Alexandria, Virginia; son, Jeffrey P. Norton of St. Paul; stepsons, Kelly Jonason of San Luis Obispo, California, and Bill Jonason of Rochester; brother, Henry W. Norton, Jr.; and 10 grandchildren. ■

William Earl McGee

Class of 1980

William Earl McGee died of complications from lung cancer on November 13, 2000 at the age of 47.

Mr. McGee received his Juris Doctorate degree from the University of Minnesota Law School in 1980, where he was a member of the Administrative Law/Constitutional Law Honors Program. He earned a Masters of Arts degree in Classical Studies from the University of Minnesota in 1977, as a Bush Foundation Fellow. He attended Luther College in Decorah, Iowa and transferred to the University in 1972, where he majored in Latin and minored in Criminal Justice.

He worked as a staff attorney at the Legal Rights Center in Minneapolis for three years following law school graduation. He served as a Hennepin County Assistant Public Defender (1983–85) and returned to the Legal Rights Center as Executive Director (1987–1992). Mr. McGee then served as an Assistant Hennepin County Attorney until he was appointed Chief Public Defender for the Fourth Judicial District in 1997. He was the first African American to be appointed a Chief Public Defender in the State of Minnesota. He was reappointed for a second term in 2000.

Mr. McGee taught as an Adjunct Professor at William Mitchell College of Law. He was committed to mentor-

ing young attorneys and students. He was also an active member of Pilgrim Baptist Church.

Mr. McGee was involved in numerous community activities and organizations, including the NAACP, chair of the legal Regress Committee Minnesota Criminal Rules Committee, founding board member of the Minnesota Institute of Technology, ARTS-US, and founding member and past president of the Minnesota Association for Black Lawyers. He received many community and professional awards, include the 1992 Hennepin County Bar Association Pro Bono Award and the 1992 Minnesota Minority Lawyers Association Leadership award.

He is survived by his wife, Rose McGee; four children, Jason, Jeremy, Adam Davis-McGee and Roslyn Harmon; his father, Earl W. McGee; a sister, Carol McGee Johnson; two brothers, David and Jonathan McGee; and one grandson Jaekwon McGee. He is also survived by his niece Ashani Johnson Turbes; nephews, Nathan and Jacob Johnson and Zachary McGee; and a host of aunts, uncles and cousins. His beloved mother, Anna Woods McGee preceded him in death in 1993. ■

In Memoriam

Class of 1929

Governor Harold E. Stassen
Sunfish Lake, MN
March 4, 2001

Class of 1931

Elmer M. Perrier
Fergus Falls, MN
January 30, 2000

Class of 1932

Honorable George O. Murray
Minnetonka, MN
November 15, 2000

Class of 1935

Honorable Eugene A. Burdick
Sarasota, FL
November 4, 2000

Class of 1938

Robert W. Dygert
Minneapolis, MN
January 9, 2001

Leonard E. Hanson
Sarasota, FL
January 18, 2001

Class of 1941

John A. McEachron, Jr.
Tucson, AZ
November 15, 2000

Class of 1946

William E. Mussman, Jr.
Modesto, CA
February 11, 2001

Warren F. Weck, Jr.
Minnetonka, MN
January 18, 2001

Class of 1948

Allen O. Feil
Irving, TX
September 10, 2000

Class of 1949

Warren Christianson
Sitka, Alaska
October 19, 2000

Honorable J. Jerome Plunkett
St. Paul, MN
December 5, 2000

Class of 1950

Charles A. Johnson
Mankato, MN
August 3, 2000

Class of 1951

Warren E. Eastlund
Minnetonka, MN
November 5, 2000

William J. Endersbe
Thousand Oaks, CA
August 15, 2000

Class of 1955

Honorable Fred C. Norton
Marine on the
St. Croix, MN
October 28, 2000

Class of 1956

James A. Fridland
Bloomington, MN
June 21, 2000

Stephen B. Solomon
Minnetonka, MN
November 5, 2000

Class of 1965

David Laxson
Honolulu, Hawaii
March 27, 2000

Class of 1979

Thomas Sanner
Hopkins, MN
February 21, 2001

Class of 1980

William E. McGee
Golden Valley, MN
November 13, 2000

Class of 1982

Thomas C. Grindberg
Circle Pines, MN
November 8, 2000

Faculty Scholarship

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