

# THE COLOPHON

*Newsletter of the Riesenfeld Rare Books Research Center University of Minnesota Law Library Spring 2006*

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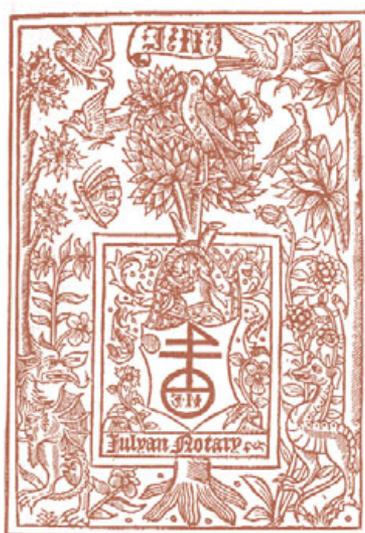
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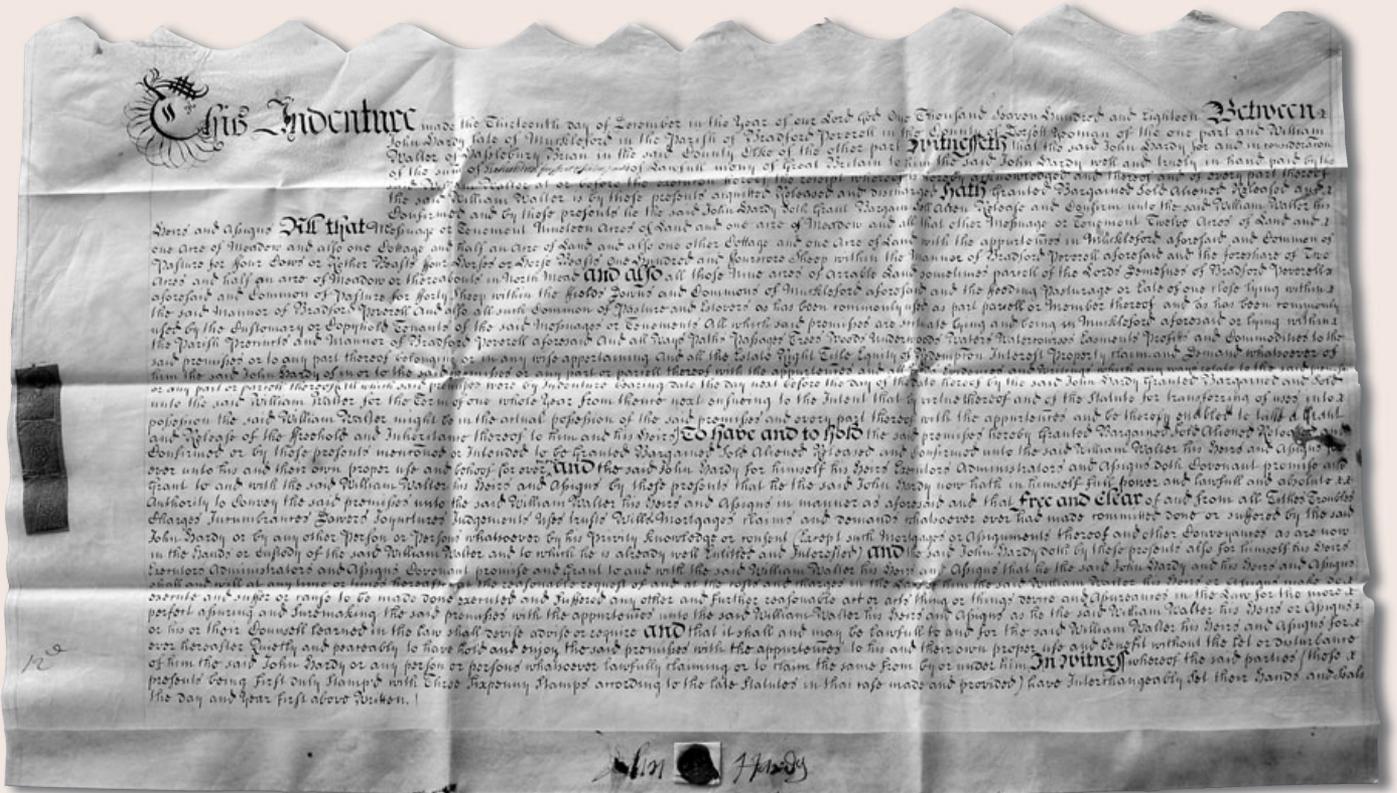
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The Riesenfeld Rare Books Research Center has received several noteworthy gifts during the past year. One significant gift is the Archives of the Labor Law Group, an association of law faculty specializing in labor law. The Archives traces the development of the Labor Law Group from its inception in 1946 through the present. The materials are a vital resource to researchers interested in the development of labor law teaching and are a strong addition to the University of Minnesota Law Library's excellent collection of labor law materials. A future issue of *The Colophon* will feature an in-depth look at these Archives.



Deed dated December 13, 1718 between John Hardy in the County of Dorsett and William Wallor in the County of Ilko, England. Gift from the collection of Richard Fudali, Class of 1960.

We have received several rare, handwritten deeds and charters from the collection of Richard H. Fudali, Class of 1960. These supplement the Henton Collection of Legal Documents, which includes some 500 deeds and charters dating from 1615 to 1890. Almost all are on vellum, ranging in size from 6 x 8 inches to poster size. Many contain an engraved royal seal and many are signed with either a red or blue wax seal. Included in the collection are a variety of legal instruments: wills, probate documents, letters of attorney, and indentures relating to marriage and the conveyance of real property.

We were delighted to receive a copy of *Prosser on Torts*, a signed presentation inscription in William Prosser's hand to William Lockhart. A gem indeed! The book was the gift of Edward F. Rooney, Class of 1971.

To William B. Lockhart  
 as a memento of his past  
 life and a guide to his  
 future conduct.  
 - William L. Prosser.

*Prosser on Torts*, 1941.



# A Tribute to Professor Marshall

*Donald G. Marshall retired at the end of the 2004-2005 academic year. Professor Marshall is an outstanding teacher as well as an expert on torts and evidence. He taught evidence, torts, products liability, medical malpractice, insurance, and media law. Professor Marshall was selected as Teacher of the Year in 1971 and 1979. He was also honored with the Stanley V. Kinyon Teaching and Counseling Award in 1983, 1989, 1991, and 1995. In 1995, he was appointed as the first Law Alumni Distinguished Teacher.*

Professor Marshall earned a B.A. degree from Williams College and an LL.B. degree from Yale University, where he was Note and Comment Editor of the *Yale Law Journal*. After receiving his LL.B. degree, Professor Marshall clerked for Justice Haydn Proctor of the New Jersey Supreme Court. From 1961 to 1967, he was an associate and then a partner of the law firm of Lowenstein and Spicer in Newark, New Jersey. Professor Marshall joined the Law School faculty in 1967.

*We are pleased to share with our readers a talk he gave at his last class on April 27, 2005. We are also pleased to include a few excerpts from a memory book compiled by students and presented to Professor Marshall at his retirement party.*

Professor Marshall was far and away the best teacher I had in my entire higher education career. He was the most intellectually demanding, and often had me shaking in my seat for fear of being called on. I still reflect on Professor Marshall's presence in the classroom, and his brilliant use of the Socratic method.

Just one brief story. In the fall of 1975 I was a first year student, and had Professor Marshall for torts. It was in a large, unventilated classroom in old Fraser Hall. I think it was the second or third day of class when my classmate Alan (now Justice) Page entered the door at the back of the classroom about two minutes after the bell. Professor Marshall stopped talking mid-sentence and just glared at him. The class was hushed. Under Professor Marshall's silent gaze, Alan walked slowly and quietly across the back of the classroom and all the way down the side aisle to the front row, which had the only available seats. At that time Alan was certainly the brawniest guy at the Law School, and was a living nightmare to NFL quarterbacks. But, when he slid into his seat that morning, I think he had shrunk to about four foot two. Professor Marshall made no comment and just went on with his instruction, but from that day forward Alan was the first to arrive for class and nobody was ever late.

*Gregory L. Dose, Class of 1979*

*Goldstine, Skrodzki, Russian, Nemec and Hoff; Chicago*

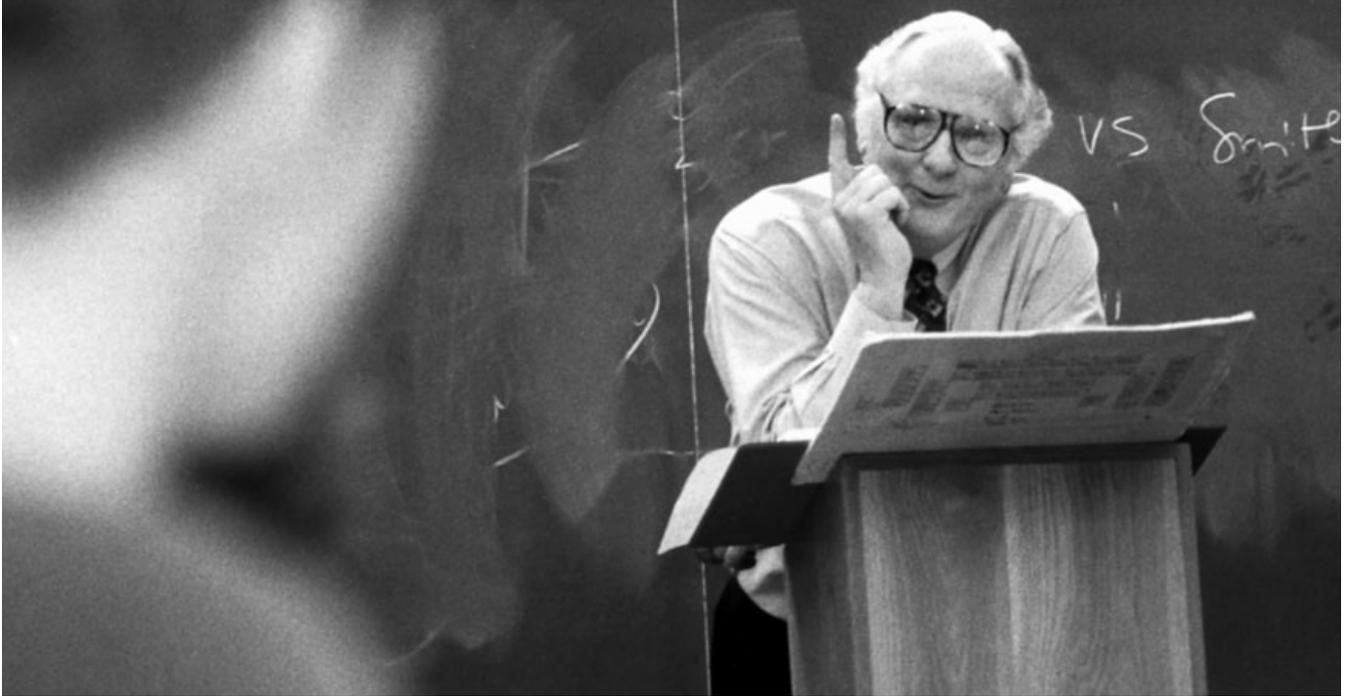
I don't think I ever thought of the Law as a Theatrical Experience until Professor Marshall became a huge part of my first year law school experience....The written word really cannot do justice to the presentation that was the riveting and essential part of learning from Professor Marshall. My favorite theatrical case (Anjou v. Boston Elevated Ry. Co.) involved the slip and fall case on a train platform, with the culprit being a dropped banana peel. The lawyers developed the evidence at the negligence trial of the train depot operators that the condition of the banana peel was flat, black, dry, and gritty. The student answering the Socratic question of "What was the condition of the banana peel?" answered, in a monotone, "flatblackdryandgritty." "INDEED," thundered the Professor, exuberantly pointing finger directed skyward. "We must note that the peel was FLAAATTTT, BLAAAACK, DRY, AAAND, GRITTY!" We spent nearly an entire class period considering the relevance, materiality, and competence of the FLAT, BLACK, DRY, AND GRITTY banana peel and I have never again viewed banana peels, or the presentation of seemingly mundane evidence, in quite the same way. Thank you, Professor Marshall!

*Lucinda Hruska-Claeys, Class of 1980*

*Wells Fargo Bank, Mpls.*

# Remarks by Professor Donald Marshall

*Made during his last class April 27, 2005*



*Professor Donald Marshall*

**Most of you undoubtedly know that I am retiring from the faculty of the Law School, effective May 15th. I have discovered there is nothing like the prospect of retirement to make a man think and think serious thoughts. In the time remaining, I want to share some of those thoughts with you.**

In so doing, I will be presuming on the prerogative of the podium by talking to you briefly about things which have nothing to do with Evidence, little to do with law, but everything to do with life. I do this with some trepidation because by talking to you about things personally significant to me, I risk self-exposure. But I think I am comfortable enough with this group to chance that.

I want to talk to you about the crucial importance of having a deliberately considered, clearly-thought-through set of personal values and principles that guide your life-affecting decisions and maximize the chance that your life will turn out to be a meaningful one because it is a fact that if your life is to have meaning, you will have to infuse it with values. Winston Churchill said that you can divide people into two groups: Those who work and then play, and those for whom work is play. The latter, he said, are among fortune's favored. To an extent, Churchill was correct. To an extent, those for whom work is play are among

fortune's favored, but only to an extent. Why do I say that? Because those for whom work is play live in constant danger, in danger of developing a life without balance—a life without proportionality, and ultimately a life that lacks maximum meaning. They are in danger of awakening one day at age 45, or 50 or 55, sitting bolt upright in bed and saying, "This isn't what I meant. That isn't what I meant at all." And there are few things more depressing than that realization.

To minimize the chance of that happening to you, it is not too early to start asking yourself now what a meaningful life is. That's not an easy question. Philosophers have been asking it for at least two thousand years. It is obviously not a question to which there is one clear answer. Each of you will undoubtedly arrive at an answer that differs in some respects from the answers of your fellow students, and from mine. And whatever answer you now give will undoubtedly change over time as you experience more of life.

For what it's worth, I give you my present answer to the question: what is a meaningful life? For me it is a life that rests on six basic values or principles:

*First, a belief that invidious discrimination is profoundly wrong.*

A belief so strong that when you observe a person inflicting a deprivation on someone because of that someone's race, gender, ethnic background, or affectional preference, you experience that deprivation not only as an assault on the victim's dignity, but also on your own. A belief involving a recognition that every act of invidious discrimination against another you witness and don't feel diminishes you as a person. A belief that motivates you not only to avoid invidious discrimination, but also causes you to encourage others to avoid it.

*Second, a belief that it is important to be of service.*

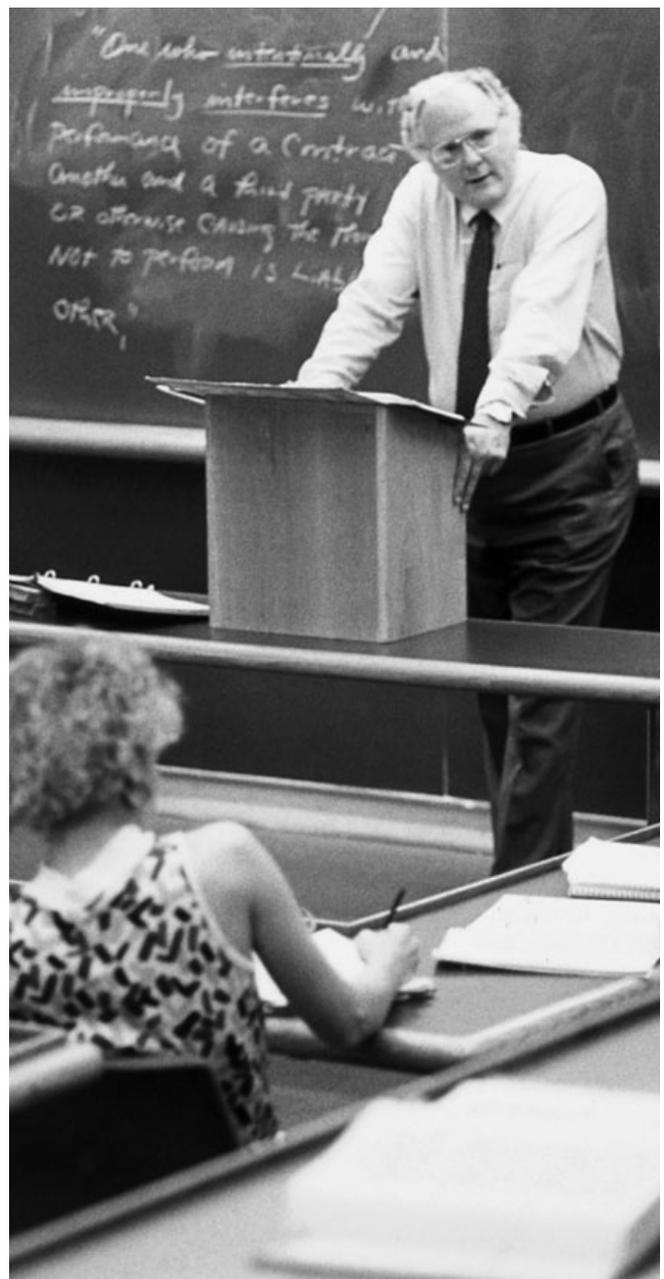
Do not regard providing for your own comfort as the end and aim of your life. A life in which comfort is the primary goal is a stunted life. Our economic system and social structure being what they are, you as lawyers will be far more comfortable than the vast majority of Americans can ever hope to be. There is security in that; and I do not denigrate the importance of having security, but there is no—or at least should be no—pride in it, and ultimately not much satisfaction. The real satisfaction comes from being able to say you have been of service—that you have contributed in positive ways to the lives of others—that their lives are a little better because of you.

*A third principle is related to my second, but distinct.*

Regard it as your obligation to teach. I don't mean in the sense that I attempt to teach in the law school setting. You will find that there are many forms of teaching more meaningful than this. It is through teaching all sorts of people in all sorts of settings that you help others grow. Their growth gives quality to their lives and, derivatively, to yours. So teach: your children, partners, friends, colleagues, clients, adversaries, and others. Teach them, among other things, about the promise of being human.

*Fourth, believe that it is profoundly wrong to manipulate or exploit another human being for your own benefit.*

This life-guiding principle is absolutely essential for the lawyer, because when working as a lawyer you will manipulate others (indeed you will be required to manipulate others) in order to achieve benefits for your clients. That will be a regular feature of your professional life. And, if you are not very careful, it will become a regular feature of your personal life. In your professional life manipulation of others is, within limits, acceptable. But to use others for your own personal advantage deprives you of integrity and, ultimately, self-respect.



*My fifth life guiding principle:*

Live a healthy life. Pay attention to creating, preserving, and if possible improving your physical and mental health. You owe that not only to yourself, but also to others. And because you owe it to others—particularly those who care about you—the effort to achieve and keep your health has an important, moral aspect to it.

*Sixth, finally, and for me most important:*

Devote yourself to creating a few genuine love relationships. I say only a few because by “love” I mean an attachment to, and respect for, another person, so powerful that you can honestly say her or his happiness is at least as important—maybe more important—than your own. When you can honestly say that her or his joy is your joy. When you can honestly say that you experience her or his pain as your own—not that you can imagine it, but that you feel it. Those kinds of love relationships require a willing investment of enormous emotional resources, and for that reason most of us are capable of only a limited number of such relationships—with our children, or parents, or partners, or a couple of friends.

Not only do these relationships require investment of emotional resources, they require time, attention, and energy, and for that reason they are easy for the busy lawyer, or law student, to

neglect. They can be readily deferred—more readily deferred than preparation for trial of that products liability case, or the closing of that merger, or the drafting and implementation of that estate plan, or the handling of that bankruptcy, or the myriad of other professional tasks you will be asked to perform. And when you have completed all those tasks, and you turn to the one you love, she or he may not be there—not there literally—or not there metaphorically—in either case she or he is not there. And you have lost a chance to show your love.

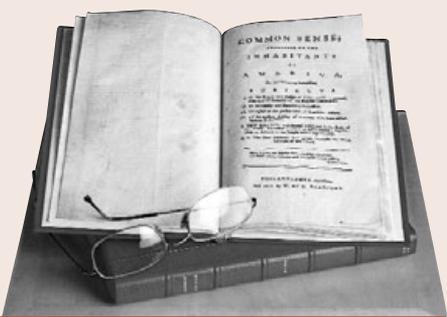
So there it is. Those are the principles that I think should guide a life in order for it to be truly meaningful. Notice I don't include acquiring wealth or power, or professional prestige or preference or recognition. Those are all nice things to have, and it is foolish to reject them if you can have them without being untrue to your principles. But it is fidelity to the basic principles that ultimately makes life meaningful.

So, ask the question: what is a meaningful life for me? Arrive at an answer. Then live by it. If you do, you may turn out to be one of fortune's truly favored. You may turn out to be one of those who awakens at age 45, 50 or 55, sits bolt upright in bed and says: “This is what I meant. And it's good.” My wish for all of you is that you turn out to be one of fortune's truly favored. 📖



**'It's not something I boast about, but I once held a class spellbound.**

# Treasured Vintages: Fine Wines and Rare Books



*On March 29, 2006, the Riesenfeld Rare Books Research Center came alive with sparkling conversation, fine wines, and delicious chocolates. The editorial boards of Minnesota Law Review, Law and Inequality, Minnesota Journal of International Law, and Minnesota Journal of Law, Science & Technology were joined by a group of distinguished alumni and friends of the Law School for an evening of wine tasting and rare books. Guests sampled an intriguing selections of wines under the guidance of a sommelier and savored a few of the highlights of the Library's renowned Rare Books Collection.*



David Leishman, 3L, and Michael Reif, 3L



Karen Anderson, Warren Spannaus (Class of 1963), Dean Alex Johnson



Professor Harry Martin (Class of 1968), Harvard Law School



Judge James Rosenbaum (Class of 1969)



Lisa Hird Chung, 3L, Matthew Krueger, 3L, Elizabeth Maxeiner, 3L, Daryle Uphoff



Richard Ihrig (Class of 1973)



*Professor William A. Schabas, National University of Ireland, Galway*

## The University of Minnesota Law Library Distinguished Lecturer Series

On November 1, 2005, William A. Schabas, Professor of Human Rights Law and Director of the Irish Centre for Human Rights at the National University of Ireland, Galway, delivered the third annual lecture of the University of Minnesota Law Library Distinguished Lecturer Series. Professor Schabas's lecture, "Dachau to Darfur: Arresting Impunity with International Justice," was co-sponsored by the Law Library and the University of Minnesota Human Rights Center. The lecture and an accompanying exhibit, "Defending Human Rights: The Legacy of Dachau and Nuremberg," were presented in commemoration of the 60th anniversary of the war crimes trials at Dachau and Nuremberg. The exhibit highlighted valuable and unique photographs and documents collected by Horace R. Hansen, a St. Paul attorney and a prosecutor of war crimes trials at Dachau.

Professor Schabas's presentation focused on the development of international criminal prosecution, with particular emphasis on the development of the International Criminal Court. He explored various explanations for the overt hostility of the United States to the International Criminal Court, especially in light of United States support for international criminal justice. "The paradox of the hostility of the current government of the United States towards the ICC," noted Schabas, "is the fact that it is set in a background of sixty years of great enthusiasm for international criminal justice, unmatched by any other government in the world." This support, dating back to the war crimes



*Dean Alex M. Johnson, Jr., Professor William A. Schabas,  
Associate Dean Joan S. Howland*

trials of Dachau and Nuremberg, flows from the idea that human rights are “on the agenda”—that they stand at the heart of the war aims of the Allies of World War II. Indeed, Schabas asserts the success of the ICC—at the time of his lecture it had been ratified by 100 countries—leads to one conclusion: it is an idea whose time has come.

Professor Schabas examined the development of the concept of crimes against humanity, first articulated in 1945 to cover atrocities, persecutions and deportations committed against a civilian population on the grounds of race, political belief and religion. At the London Conference to draw up plans for the prosecution of the Nazis, Justice Robert Jackson argued for a key limitation. Conscious that the conduct of the United States towards its minorities amounted to what he termed “regrettable circumstances,” Jackson convinced the other conference participants to limit crimes against humanity to those acts committed in connection with war. Jackson stated:

[O]rdinarily we do not consider that the acts of a government toward its own citizens warrant our interference. We have some regrettable circumstances at times in our own country in which minorities are unfairly treated. We think it is justifiable that we interfere or attempt to bring retribution to individuals or to states only because the concentration camps and the deportations were in pursuance of a common plan or enterprise of making an unjust or illegal war in which we became involved. We see no other basis on which we are justified in reaching the atrocities which were committed inside Germany, under German law, or even in violation of German law, by authorities of the German state.<sup>1</sup>

As Professor Schabas noted, “You can imagine this room...there’s someone from the United Kingdom—I can just see the guy scratching his head, saying ‘That’s a good point. You know, now that you mention it, think of India, Nigeria, and Ghana...’” Thus, prosecution of the Nazi atrocities became the prosecution of war crimes.

Professor Schabas then picked up another strand of the developing human rights framework: the concept of genocide. In reaction to what Professor Schabas described as the “ugly limitation” restricting crimes against humanity to wartime, developing countries came to the United Nations to put genocide on the UN agenda. The UN adopted the Genocide Convention in 1948 to address states that perpetrate narrowly-defined atrocities—i.e., genocide—against their own people during peacetime. Until 1995, these two strands—genocide and wartime crimes against humanity—remained separate. A decision from the



*Regent Frank A. Berman (Class of 1965), Associate Dean Joan S. Howland*

International Tribunal for the Former Yugoslavia (ICTY), however, united them.<sup>2</sup> The ICTY ruled that crimes against humanity can occur during peacetime. Professor Schabas summarized the current state of international law as follows: “Crimes against humanity cover all gross and systematic violations of human rights. This is codified in the Rome Statute of the International Criminal Court.”

To show the impact of this change, Professor Schabas touched briefly on the situation in Sudan. While much discussion of Sudan’s actions in Darfur has focused on whether genocide is occurring, he emphasized that the United Nations has affirmed that Sudan’s actions amount to crimes against humanity. In his view, this affirmation has been “grievously misunderstood” as some trivialization of what is happening in Darfur: “If they put you in the same category as the Nazis, Hitler, Bormann and Goering,...that’s a pretty terrible crime.”

Professor Schabas concluded by summarizing the development of legal principles and institutions since Horace Hansen prosecuted Nazi war criminals after World War II. He noted that the legal principles have expanded to address crimes during both war and peace, and that the international community now has a permanent institution to prosecute such crimes. As Professor Schabas concluded, “That’s pretty good progress in sixty years, and I think Horace Hansen would have been proud of us for doing it.”

#### *Notes*

- 1 Minutes of Conference Session of July 23, 1945, in Report of Robert H. Jackson, United States Representative to the International Conference on Military Trials 333 (1949).
- 2 Prosecutor v. Tadic. Case No. IT-94-I-AR72, Decision on the Defense Motion for Interlocutory Appeal on Jurisdiction, at para. 141 (Oct. 2, 1995).



## *Defending Human Rights: The Legacy of Dachau and Nuremberg*

In conjunction with Professor Schabas's lecture, the Law Library and the Human Rights Center staged an exhibition focusing on war crimes. The centerpiece of this exhibit is a unique collection of photographs and documents collected by Horace R. Hansen, prosecutor of the war crimes division for the Third Army. The Horace R. Hansen Archives were donated to the University of Minnesota Law Library in May 2005 by the Hansen family. The exhibit was opened by the Honorable Frank R. Berman, Regent of the University of Minnesota. Regent Berman (Class of 1965) is a member of the United States Holocaust Memorial Council, the governing body of the United States Holocaust Memorial Museum in Washington, D.C.

Horace Hansen (1910-1995) received his J.D. from the St. Paul College of Law (William Mitchell College of Law) in 1933. Before joining the armed forces in 1943, Hansen had a successful career as a workers' compensation attorney for the Industrial Commission and as a prosecuting attorney in the Ramsey County Attorney's Office.



*Professor David S. Weissbrodt*

The Hansen Archives include personal pictures of the surrender of German soldiers and officers in the weeks leading up to V-E Day, May 7, 1945. In one of Hansen's extensive letters home, he wrote, in his characteristic straightforward manner, "When the great V-E news is announced, there is mild excitement lasting about five minutes. Then everyone goes back to work." The Archives include a complete file of these letters, which were widely circulated and published in the *St. Paul Dispatch*.

Hansen's transfer in January 1945 to the Judge Advocate's General Corps with assignment to the war crimes division led to his appointment as a prosecutor at Dachau. The Hansen Archives contain personal photographs of the courtroom at Dachau, including a chilling photograph of forty defendants, with Hansen's handwritten annotation, "These are the bastards now on trial."

On Hansen's staff at Dachau were five of the eight stenographers who had recorded verbatim Hitler's twice-daily military-situation conferences. Hansen conducted thorough interviews with each of these recorders, documenting first hand information about Hitler's rise to power and his command of the war. The Archives include transcriptions of these immensely valuable oral histories. Of particular interest is an eyewitness account by Reichstagsstenograph Heinz Buchholz of the attempt on Hitler's life on July 20, 1944. Hansen's experiences as a prosecutor and his interviews with Hitler's chief recorders form the basis for his book, *Witness to Barbarism*, published in 2002.

After the war, Hansen became a partner in the St. Paul firm now known as Hansen, Dordell, Bradt, Odlaug & Bradt. He was a nationally recognized expert in insurance, banking and health law and served as general counsel for Independent Bankers of America. A strong supporter of the cooperative movement, Mr. Hansen was one of the founders of Group Health, now HealthPartners, and served as its counsel for many years. 

*Katherine Hedin*

*Curator of Rare Books and Special Collections*

*The University of Minnesota Law Library and Human Rights Center gratefully acknowledge the support of Hansen, Dordell, Bradt, Odlaug & Bradt as well as HealthPartners in making this exhibit possible. The Library and Center also appreciate the assistance of the University of Minnesota Human Rights Program and the Center for Holocaust & Genocide Studies as well as Minnesota Advocates for Human Rights.*



## The Human Rights Legacy of Dachau

*The Dachau trials have been called the largest yet least known series of Nazi trials in history. Beginning on November 13, 1945, the American Military Tribunal at Dachau tried 1,672 alleged war criminals in 489 separate proceedings. Unlike the trials at Nuremberg which focused on the architects of Third Reich policies, the Dachau trials brought to justice those Germans who carried out the policies. Defendants included concentration camp commandants, medical officers, labor officers, and others who held positions at the camps.*

Dachau was chosen as the trial site largely because of its long association with German atrocities. The German government built Dachau as its first regular concentration camp, in 1933. While the earliest prisoners consisted of the Third Reich's political opponents, later the regime sent Jews, homosexuals, gypsies, Jehovah's Witnesses, and priests to Dachau. As at other camps, the Nazis performed medical experiments on prisoners, and forced them to work as slave laborers. Between 1933 and April 1945, thousands died at Dachau. When the U.S. Army liberated the camp at the end of April 1945, it held over 67,000 prisoners.

The International Military Tribunal at Nuremberg saw the prosecution of 22 Nazis, orchestrated by a team of 640 staff members. By contrast, the Dachau prosecutors had only 22 staff members to prosecute 1,672 defendants. The Dachau trials have been overshadowed by those at Nuremberg. Nonetheless, as Professor Fred Morrison has noted, the Dachau trials are part of the "concept" of Nuremberg.<sup>1</sup>

The legacy of Nuremberg includes tenets of individual accountability, medical ethics, international criminal law, universal jurisdiction, human rights, and the transcendence of law. It is reflected in the Universal Declaration of Human Rights, the Genocide Convention, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the Statute of the International Criminal Court.

Basic principles emerging from Nuremberg and Dachau include a ban against aggressive war, violations of the laws and customs of war, and inhuman acts committed on civilians; individual liability of heads of state for war crimes; rejection of the "superior orders" defense; and the right of accused war criminals to a fair trial.

Two of those principles predominated at Dachau. First, many defendants claimed that they could not be punished for following orders. In response, the prosecutors proved that no staff member in a concentration camp had ever been executed for refusing to follow an order. This helped convince the American Military Tribunal that concentration camp workers could be held responsible for the crimes against inmates. This principle has played an important role in subsequent war crimes trials, including those before the International Criminal Tribunals for the Former Yugoslavia and for Rwanda.

A second principle from Dachau is the war criminal's right to a fair trial. Some Allied leaders, including Winston Churchill, suggested executing Nazis without trial. But others felt strongly that the Allies should avoid "victor's justice." Thus, at Dachau, the defendants had important procedural rights, including the right to the defense attorney of their choice and the right to refuse to testify. They could cross-examine government witnesses, make statements to the tribunal, and have all proceedings translated into their own language. Most German defendants were amazed at the rights accorded to them.

One of the less recognized lessons from the Nuremberg and Dachau trials is the importance of documenting human rights violations. Robert Jackson, the chief prosecutor at Nuremberg, sought to present and preserve the evidence of Nazi crimes "with such authenticity and in such detail that there can be no responsible denial of these crimes in the future ..." As the last witnesses to the Holocaust disappear, the role of documentation, and the archives and libraries that preserve it, becomes even more important. Justice Stephen Breyer acknowledged this legacy when he said, "Future generations need only open their eyes and read."<sup>2</sup>

Mary Rumsey

Foreign, Comparative and International Law Librarian  
University of Minnesota Law Library

### Notes

- 1 Fred L. Morrison, *The Significance of Nuremberg for Modern International Law*, 149 *Mil. L. Rev.* 207, 208 (1995).
- 2 Stephen Breyer, Speech, *Crimes against Humanity: Nuremberg, 1946*, 71 *N.Y.U.L. Rev.* 1161 (1996).



Mary Rumsey

# “Dukedom Large Enough”

## How Law Students See The Law Library



*“Libraries are exciting and inspirational places that change lives.” This poetic claim sets the stage in a book of photographs entitled *Library: The Drama Within*.<sup>1</sup> Though such language seems perfectly suited to the grandeur of the Library of Congress or the Bodleian, it may seem a bit overblown when applied to an academic law library. But surely the law library does play a part in the life of a law student — even if its roles are not always traditional. This essay sketches the evolution of students’ views of the University of Minnesota Law Library, from the first day of law school to the first day on the job.<sup>2</sup>*

### First Year: The Nucleus

For a 1L, the library often becomes a kind of home base. “I go to the library to hang out with my section-mates,” said a first-year student who admits that law school has been an overwhelming experience thus far. Though they may do little more than study in each other’s vicinity, 1Ls can develop a sense of community through the time they spend in the library between classes and on the weekends.

Of course, legal writing and research assignments also require that first-year students spend some time in the library. Occasionally such assignments can produce an atmosphere that is more competitive than communal: students must share printers and books, and the stress of deadlines can turn formerly friendly section-mates against each other. But even when the tension in the air gets thick, the library can still be a haven. “It’s not like it’s ever as competitive or uncomfortable as things can

From: *Library: The Drama Within* by Diane Asséo Griliches, University of New Mexico Press, 1996.

get during class,” offered one first-year when asked about her experiences with last-minute legal research. “I mean, librarians don’t use the Socratic method.”

First-year students usually settle in at one of the long tables in the reading room to study or outline, and are also fond of the “nap chairs” next to the leisure reading collection. They tend to think of the upper floors as the domain of 2Ls and 3Ls, but some 1Ls have explored their options. One student claimed to be on a mission to find the best spot in the library for staring out the window and daydreaming.

Laptops are omnipresent among 1Ls: in the fall of 2004, the University of Minnesota Law School implemented a mandatory laptop lease program. Online sources do seem to be favored: “Is that available online?” is a common question in legal writing and research classes. But when asked about the value of print sources, several first-year students acknowledged that books can be easier to use (especially for beginning stages of research), and one student also noted that “it’s nice to be surrounded by books.” This “environmental” factor may seem like a minor point, but section-mates probably aren’t enough to keep 1Ls in the library. After all, they’ve come to law school expecting to study and hoping to like it at least once in a while; being surrounded by so many tools and resources can reinforce those studious tendencies.

## Second Year: The Backbone

The library habits students establish during their first year tend to take one of two very different directions during their second year. Some 2Ls continue to make a beeline for the library between classes and are eager to secure a study carrel in pursuit of a better GPA, a law review note, or just a pseudo-room of their own. This group includes those who join a journal or a moot court, as well as student legal writing instructors. These ambitious sorts are assigned a study carrel near their colleagues; the result is an office-like experience that builds on the proximity studying that many of them engaged in as 1Ls. Journal staffers tend to take the notion of a home base to the next level: they can be found at the library at all hours, chasing down a source or puzzling over a citation. Other 2Ls enter a lottery for study carrels, hoping for one near a window, or at least not right next to the restrooms.

The other common 2L path leads away from the library somewhat. Focused on gaining practical experience, some students tend to spend more time in clinic offices or at a part-time job. But the library still serves as a sort of backbone for their academic pursuits. Said one 2L, “I don’t go there as much as I used to, but I know it’s there when I need it.” Another noted that “I just don’t study as well at home. I get so much more done at the library.” These utilitarian attitudes have much in common with a more poetic view: as Archibald Macleish wrote, “But what is more important in a library / than anything else / than everything else / is the fact that it exists.”<sup>3</sup>

The “fact that it exists” hints at a broader concept of the law library that begins to take hold during the second year. My own experience as a research assistant at the library reflects this idea: my classmates would ask me for help, prefacing their requests with “You work at the library, right?” or “You’ve probably done this at the library.” Few of them knew much about my job, which focused on research projects for faculty — rather, what they knew, or supposed, is that working in a library affords one something more than research skills or knowledge of specific sources. The environmental boon of being surrounded by books becomes a general sense of being surrounded by ideas: second-year students begin to learn the value of digging deeper, and of serendipity. As they explore subtler arguments in their classes, they also learn to appreciate the subtler offerings of good collections and experienced librarians.

## Third Year: The Wings

The value of the third year of law school has been the subject of some debate and criticism.<sup>4</sup> Such questions are borne out in the third-year student’s relationship with the law library. Those 3Ls who have already secured a job tend to focus on exactly that: classes seem less important as they learn the ins and outs of their chosen firm or organization. And third-year students who have not yet found a job are also focused on exactly that. With interviews and relocation and networking to focus on, who has time for the library?

But some third-years find that a focus on one’s career produces even more reasons to spend some quality time at the library. Directories offer contact information for clerkship applications, and practice materials provide shortcuts to essential information.

A 3L on the board of the *Minnesota Law Review* spelled things out: “Sometimes things get difficult at work, and I know that if I just spend some time here, it will eventually come clear.”

Rather than being superfluous, the 3L experience of the library can be a sum of the previous two years: home base + scholarship + a respect for the concepts the library embodies = an increased ability to move amongst services and resources, in order to find the best combination to meet whatever task is at hand. The accomplished third-year law student in a library is not unlike a fish in water. “Above all, I know when to ask for help,” said the grateful law review editor.

### Lives That Change Libraries

The quotation at the beginning of this essay seems to conceive of an almost mystical power that is somehow inherent in libraries. But elsewhere in the same book, its author notes that “[the library] is only the setting. It is usually the people who make the scene that creates the drama.”<sup>5</sup>

Like the notion of the “drama” of a library, the evolution of a particular library is perhaps best understood as a chicken-and-egg question. Students adapt to their surroundings, but they also influence them. The University of Minnesota Law Library’s services and physical spaces have changed according to the needs of its community: 24-hour card access, comfortable chairs and leisure reading, and conference/study rooms all respond to students’ need for a home away from home, as well as a place to focus on the issues and challenges of their classes and activities. In the past few years the library has grown beyond its walls. VPN access allows students to connect to electronic resources that were formerly limited to on-site workstations or computers within range of the university’s routers. Students can literally carry their legal research home on their (wireless) backs. Doing so allows them to make more and better use of the resources they’ve already mastered within the library’s walls.

The new Barbara Steffans Hedin Alcove on Law, Literature and the Arts, slated to open in the fall of 2006, is the library’s latest response to students’ needs. Students will be able to relax in the company of wooden bookcases, legal fiction, and artwork. This

cozy space will inspire and rejuvenate weary researchers, as well as showcase the intersections between law and other pursuits — suggesting the importance of creativity within the structures and discipline of the law.

The growth of a law library — like any other evolution — is at once mysterious and basic. As the budding lawyer expands his or her horizons, so does the library. The law changes lives, and lives change the law. The result is a flexible, well-equipped species of scholars and scholarship that can face change with the knowledge that nothing stays the same, and that sometimes that’s for the best. 

*Marci L. Windsheimer*

#### Notes

- 1 *Library: The Drama Within*. Photographs by Diane Asséo Griliches. Essay by Daniel J. Boorstin. (Albuquerque: Univ. of New Mexico, 1996), 3
- 2 A note on “methodology”: students’ impressions were collected through casual conversation, rather than via a survey or a standard set of questions. This admittedly unscientific approach was intended to encourage candor and allow students to comment on any aspect of the library and their use of it, rather than constraining them to typical categories (and somewhat loaded words) like “services” and “resources.”
- 3 *Library*, vi.
- 4 Laura I. Appleman and Daniel Solove, “Abolish the Third Year of Law School,” *Legal Affairs*, September 19, 2005, [http://www.legalaffairs.org/webexclusive/debateclub\\_2yr0905.msp](http://www.legalaffairs.org/webexclusive/debateclub_2yr0905.msp); *Third-Year Law School: Jury’s Out On Its Value*, August 10, 2005, <http://www.msnbc.msn.com/id/8901797>.
- 5 *Library*, vii.

*“My library was dukedom large enough.”*

—*William Shakespeare, The Tempest, act 1, scene 2.*

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**Randall Tietjen** is a partner in the law firm of Robins, Kaplan, Miller & Ciresi L.L.P. in Minneapolis. He received a B.A. from the University of Minnesota and a J.D. from William Mitchell College of Law. He practices mainly in the areas of business and patent-infringement litigation. For many years he has been working on a book of the letters of Clarence Darrow which will be published by the University of California Press.

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